

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

15-CR-00637 (KAM)

United States Courthouse  
Brooklyn, New York

4  
5 -against-

December 07, 2017  
9:00 a.m.

6 EVAN GREEBEL,

7 Defendant.

8 -----x  
9 TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL  
10 BEFORE THE HONORABLE KIYO A. MATSUMOTO  
11 UNITED STATES DISTRICT JUDGE  
BEFORE A JURY

12 APPEARANCES

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24 Proceedings recorded by mechanical stenography. Transcript  
25 produced by computer-aided transcription.

## PROCEEDINGS

1 (In open court.)

2 THE COURT: Have a seat. We did issue an order and  
3 the defense, I believe, has provided additional 26.2  
4 disclosures for expert witnesses.

5 Can we confirm that, Mr. Chan?

6 MR. CHAN: We e-mailed that to the Government.

7 THE COURT: We had additional issues based on the  
8 Government's motion to preclude certain experts based on  
9 relevance. And I do think that Mr. Lewis' testimony, to the  
10 extent he's being proffered as a witness who will provide  
11 information regarding the blue sheet data and whether or not  
12 the trading patterns of the Fearnow shareholders established  
13 or are consistent with a conspiracy to control price and  
14 volume, is relevant to the issues of the case. And I don't  
15 believe that there would be a reason to preclude his  
16 testimony. I think he's the first one up today, right?

17 MR. CHAN: Yes, after the current witness.

18 THE COURT: The issue that I have with Mr. Ferruolo,  
19 or Dean Ferruolo, is that the supplemental opinion I believe  
20 is not appropriate. And I would be disinclined to permit it  
21 because I think we have a situation where he's discussing a  
22 lock-up agreement, which is not what we have in the record  
23 here. And he's also making an ultimate conclusion on the law,  
24 which is beyond his appropriate province regarding whether or  
25 not something is permitted and lawful under the SEC rules and

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1 regulations and statutes. So I would not permit the  
2 supplemental opinion.

3 Mr. Minkoff's testimony regarding the ethical and  
4 professional responsibilities of an attorney in terms of  
5 settlement, I believe is relevant to this, the issues in this  
6 case.

7 Although the Government contends that Mr. Greebel is  
8 not being charged with somehow preparing faulty settlement  
9 agreements or refusing to prepare settlement agreements, what  
10 is at issue is his state of mind. And what we have is  
11 evidence in the record that he was aware of threats of  
12 lawsuits. And he was aware that Mr. Shkreli, as CEO of  
13 Retrophin, had directed that he provide settlement agreements.  
14 And therefore, I believe that Mr. Minkoff's testimony  
15 regarding the ethical and professional responsibilities of an  
16 attorney to follow client's directives or requests to execute  
17 settlement agreements is relevant to the issues in this case.

18 Ms. Klein, I was concerned initially with her  
19 initial planned testimony that she was going to interpret New  
20 York and Delaware law and talk about causes of action under  
21 both of those state laws. I don't think that's appropriate.

22 I want to confirm with the defense that she's not  
23 going to be doing that anymore?

24 MR. CHAN: Correct.

25 THE COURT: What exactly will she be doing? Will

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1 she just be saying that in her opinion as a plaintiff's  
2 attorney, given her experience that there is a colorable,  
3 good-faith basis to sue Retrophin in certain circumstances,  
4 or, what is she going to say?

5 MR. CHAN: I think she would say that. And she  
6 would say that there are colorable claims. She might  
7 categorize the types of claims, fiduciary or breach claims,  
8 but not cite specific statutes.

9 And she might talk about strategies involved as a  
10 plaintiff's attorney in communicating her ability if there was  
11 a claim against them, punitive defendant.

12 THE COURT: I think she was going to talk about not  
13 just whether an attorney in good faith would have a colorable  
14 claim, but she was also going to talk about the adverse impact  
15 of a publicity and possible cost of litigation.

16 MR. CHAN: That's right, your Honor. That goes into  
17 her assisting how she might communicate a demand to a target.

18 MR. KESSLER: There is nothing about assisting in  
19 her disclosures. The disclosure was about whether there was a  
20 claim.

21 MR. CHAN: There is a bullet, I don't have it in  
22 front of me, the Court is obviously thinking of something that  
23 we wrote. There is a bullet --

24 THE COURT: It wasn't described as strategy, it was  
25 just as part of her opinion that as a plaintiff's attorney,

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1 when a plaintiff's attorney is threatening litigation, her  
2 view is that the responding party would be concerned about  
3 adverse publicity or --

4 MR. KESSLER: She's now going to be offered to  
5 testify about what Mr. Greebel must have been thinking,  
6 although he's not a plaintiff's attorney and he doesn't know  
7 any of the things she's saying. There is no basis that  
8 Mr. Greebel knew any of the things that Ms. Klein is going to  
9 talk about.

10 THE COURT: What we have, though, are attorneys and  
11 investors who say they've retained attorneys, threatening to  
12 exercise their rights against Retrophin.

13 MR. KESSLER: Agreed.

14 THE COURT: And so to the extent that there is an  
15 argument that the threat of litigation was not existent or  
16 real or serious or colorable, I think that the defense should  
17 be allowed to proffer somebody who is going to say, well,  
18 actually, yes, there are good faith, colorable claims that  
19 Mr. Greebel reasonably could have perceived and being of  
20 concern and would have been relevant to his state of mind when  
21 he was asked to prepare settlement agreements.

22 MR. KESSLER: Mr. Greebel's perception might be  
23 relevant; but Ms. Klein has nothing to do with Mr. Greebel's  
24 perception. The threats, to the extent they were made, were  
25 made. They are in the record. Dr. Rosenwald's lawyers listed

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1 a bunch of statutes, the other people made vague references to  
2 accounting or litigation. That's in the record. They can  
3 argue what Mr. Greebel thought.

4 They are now trying to have a plaintiff's lawyer, a  
5 litigator, come in and either validate in the abstract these  
6 claims or say what Mr. Greebel might have thought.

7 MR. CHAN: To clarify, our expert won't say, If I  
8 were standing in Mr. Greebel's shoes I would think X, Y, Z.

9 THE COURT: She couldn't say that.

10 MR. CHAN: The expert would only be saying, If I  
11 were the plaintiff's attorney in this situation, I think they  
12 were A, claims; B, I would communicate my belief in the  
13 validity of those claims to the company's counsel in the  
14 following manner, designed to make the company's counsel be  
15 concerned about the legitimacy of the claims, time it with  
16 vulnerability of the company, I would make it known that this  
17 litigation is not worth the hassle.

18 Those are traditional things that plaintiff  
19 attorneys do to file a lawsuit.

20 THE COURT: I don't think she can testify in this  
21 the first person. Because I think some of your submissions  
22 seem to suggest that she would say that I as plaintiff's  
23 attorney would do X, Y, Z. I think I would be more  
24 comfortable if she said, a reasonable attorney would have good  
25 faith claim.

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1           Now, the problem is that we have evidence in the  
2     record that Retrophin should not be obligated to pay  
3     obligations of Mr. Shkreli or MSMB, which I think is a valid  
4     piece of evidence. But the inference to be drawn is that  
5     therefore Retrophin had no exposure.

6           MR. KESSLER: That's not the argument. We're not  
7     arguing it was not legally impossible to sue Retrophin. As  
8     the Court said yesterday, you can sue people for --  
9     Dr. Rosenwald's lawyers were probably not making up the fact  
10    that there was a potential claim under Martin under state law.

11           The issue was, what was done about it what  
12    Mr. Greebel was thinking.

13           I understand the Court's questions from yesterday  
14    about what an attorney faced with such a threat might have  
15    done or not done, that's a live argument in the case. But  
16    this is now testimony from a lawyer, who wasn't involved in  
17    the case, about what a reasonable plaintiff's attorney -- so  
18    she's talking about what Dr. Rosenwald's attorney -- might do.

19           THE COURT: So are you not contending that  
20    Mr. Greebel -- are you saying that Mr. Greebel reasonably  
21    could have been concerned about litigation threats in agreeing  
22    with Mr. Shkreli's request to formulate settlement agreements?

23           MR. KESSLER: We're not taking -- we don't know what  
24    Mr. Greebel was thinking. There is going to be an argument --

25           THE COURT: You have to prove that he had a mind, a

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1 state of mind, that would, in which he would agree to an  
2 illegal scheme to pull money out of Retrophin and do it via  
3 settlement agreements.

4 MR. KESSLER: Completely agree. All I'm saying is  
5 what a reasonable plaintiff's attorney might have thought  
6 about a claim, doesn't have anything to do with that question.  
7 So I'm not trying to litigate the entire case here. All I'm  
8 saying is, whether or not Dr. Rosenwald's attorney reasonably  
9 believed that the claims they were suggesting they might have  
10 had, were valid or not, doesn't factor in here. Because  
11 Mr. Greebel is not a plaintiff's attorney. Ms. Klein doesn't  
12 know what he was thinking.

13 And so they are trying to validate the threat in the  
14 hypothetical; but the threat was made or not made, depending  
15 on the case. If Ms. Klein gets in and says a reasonable  
16 plaintiff's attorney could have well have done X, Y, Z, okay,  
17 but we actually know what happened in this case.

18 THE COURT: So you're not going to argue to the jury  
19 that no reasonable lawyer in Mr. Greebel's shoes would have  
20 thought this was a serious threat of litigation, or that these  
21 were not serious threats of litigation. Are you going to be  
22 arguing in any respect that threats of litigation by investors  
23 or lawyers were not credible or valid or meritorious?

24 MS. SMITH: No. I don't think there is an argument  
25 that Lindsay Rosenwald thought that he could bring a claim



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1 against Retrophin.

2 The question is, what did Mr. Greebel think and why  
3 was he doing what he was doing. I think there is no dispute  
4 that if he legitimately, if the defense can prove that he  
5 legitimately thought he was acting in the best interest of  
6 Retrophin, then we haven't proved our case.

7 THE COURT: They don't have to prove anything.

8 MS. SMITH: Of course they don't. But they can't  
9 put a expert witness in to say what a plaintiff's -- what was  
10 in Mr. Rosenwald's attorney's head.

11 What they are trying to do is draw the inference  
12 what Mr. Greebel was thinking based on what a reasonable  
13 plaintiff's attorney might have done in this situation, and  
14 that's improper. What Mr. Greebel was thinking has to do with  
15 what information he got at the time, not what a hypothetical  
16 plaintiff's lawyer might or might not have done.

17 We know, as Mr. Kessler said, what Mr. Rosenwald's  
18 attorney actually did. We know what they put in their letter.  
19 There is more than enough to argue from Mr. Greebel what he  
20 thought or what he did based on that information.

21 What does a hypothetical plaintiff's lawyer with  
22 other claims they could possibly have brought, other  
23 strategies, they could have done, which did not in fact happen  
24 in this case, how can those possibly go to Mr. Greebel's state  
25 of mind in this case?

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1 MR. KESSLER: So that's the point. It's that the  
2 specific testimony this expert is offering doesn't effect  
3 anything that's relevant in the case.

4 MR. CHAN: I couldn't disagree more. The Government  
5 from the moment they charged this case has argued that the  
6 settlement payments paid for claims that were completely  
7 invalid, that Retrophin should never have paid for. That  
8 encompasses a broad range of should-pay-for concepts. Whether  
9 or not the claims were actually substantive, actually  
10 meritorious, or as your Honor pointed out in the Rule 29  
11 argument, a company can pay for claims that it believes  
12 frivolous because it endangers the company but it still is  
13 worth paying for in that sense.

14 MS. SMITH: Yes, but that is not what Ms. Klein is  
15 doing.

16 THE COURT: Let him finish.

17 MR. CHAN: The Government is arguing from the  
18 beginning and they will argue that to the jury, they argued  
19 that to your Honor in the Rule 29 conference yesterday, they  
20 are arguing that this is a conspiracy to take money from  
21 Retrophin to pay off grieyed investors. The basis, the  
22 assumption of that argument, is that the settlement payments  
23 should never have been paid by the company. They argued that  
24 vigorously.

25 We're entitled to put on an expert to say, in their

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1 view, these are claims to both as a substantive matter but  
2 also because if this is a time, an appropriate time, a company  
3 that it feels vulnerable may be even more willing to pay and  
4 settle off a claim that maybe is not 100 percent guaranteed to  
5 win. Those are things that this witness will testify about,  
6 as we disclosed in our opinion.

7 MS. SMITH: Your Honor, what Ms. Klein is not doing  
8 is she's not offering an opinion on what it is reasonable for  
9 Retrophin to do. That is the issue here, was it reasonable  
10 for Mr. Greebel to take the steps that he took, to take the  
11 money from Retrophin and pay off the defrauded MSMB investors.  
12 What Ms. Klein is doing is talking as if she represented a  
13 defrauded pharmaceutical investor, what would she do. The  
14 question is, what did Mr. Greebel do, and was it reasonable  
15 for Retrophin.

16 She's not offering expert opinion, and she cannot  
17 offer expert opinions, about what is reasonable for Retrophin  
18 to do in response to what she might have done if she might  
19 have been a plaintiff's lawyer in this case.

20 MR. CHAN: That's a cross topic.

21 MS. SMITH: No, it's not. It's not an opinion that  
22 is relevant. If the question was, was it reasonable for  
23 Mr. Rosenwald to sue, then yes, bring a plaintiff's attorney  
24 in and see whether Mr. Rosenwald was pursuing an improper  
25 claim or if he was trying to use litigation improperly in this

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1 case. In that situation, Ms. Klein's opinion might be  
2 relevant.

3 But to what Retrophin did, it is not relevant to  
4 what a plaintiff's lawyer might have done. Again, especially  
5 in this case where we have what a plaintiff's lawyer in fact  
6 did for Mr. Rosenwald.

7 THE COURT: I understand the point that you're  
8 making. But the concern I have is that there has been, in the  
9 Indictment and in arguments to the -- or opening statements to  
10 the jury, the implication has been that Retrophin had no  
11 valid, legal obligation or no valid reason to pay a settlement  
12 to MSMB investors and to seek releases jointly with  
13 Mr. Shkreli and the MSMB entities because it really had  
14 nothing to do with these debts.

15 MS. SMITH: In fact, the company determined that.  
16 The control memo itself, written by Mr. Greebel, says these  
17 are not the obligations of Retrophin.

18 The question of whether or not there might have been  
19 ancillary reasons to settle these, the potential press, the  
20 potential SEC complaints, other reasons, those are frankly all  
21 in the record already. We don't need Ms. Klein to come in and  
22 say there might have been other reasons that people would have  
23 brought attention, or they would have brought a claim.  
24 Frankly, her opinion on that is irrelevant. We already have  
25 evidence in the record that that happened. I just really

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1 don't see why her opinion of what else a plaintiff's lawyer  
2 might have done would change that.

3 We have, the defense has argued that there are these  
4 concerns about going to the press, concerns about going to the  
5 SEC, which had already happened frankly, concerns about a  
6 lawsuit, that's all in there. The question of whether or not  
7 there was a legal obligation is actually not in dispute.  
8 Mr. Greebel himself found there was no legal obligation.  
9 These were the obligations of MSMB. He chose to do what he  
10 did and the reasons why he did that are frankly exactly why  
11 he's on trial.

12 But what a plaintiff's lawyer may or may not have  
13 done in this situation is totally irrelevant because we know  
14 what in fact happened.

15 MR. CHAN: That's plain wrong. Mr. Greebel did not  
16 determine that the legal liability was solely that of Martin  
17 Shkreli. That control memo, the Government also argued  
18 incorrectly. The control memo says nothing remarkable. It  
19 says in the company's view, this is Martin's fault. But that  
20 is not inconsistent with a desire by the company to settle the  
21 claim.

22 Companies consistently settle things that are the  
23 fault of Employee B, Employee A. But they are going to do it  
24 anyway because they are the company. A determination that  
25 something was, an event was caused by this person, does not

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1 mean that the company does not have an obligation or feel the  
2 need or desire or feel that it should engage in a deal  
3 settlement.

4 MR. KESSLER: Again, you just listen to that, that's  
5 talking about the company not the plaintiff's lawyer.

6 THE COURT: Well, I think if there is doubt about  
7 whether the company and Mr. Greebel, let's focus on  
8 Mr. Greebel since his state of mind is what is relevant,  
9 whether he reasonably thought that there was exposure for his  
10 client, Retrophin, or his client MSMB --

11 MR. KESSLER: That's based on what is in his head,  
12 based on the information he had when it actually happened.  
13 That's in the record. We're going to argue about that.

14 Ms. Klein's discussion about what a hypothetical  
15 plaintiff lawyer, who wasn't in the case, didn't make the  
16 claims, might have done doesn't tell you anything about what  
17 is in Mr. Greebel's head. That's the point we're making. It  
18 doesn't say anything about it. It's not that the other  
19 arguments that Mr. Chan makes, that we've been making, that  
20 the Court is asking, we get the arguments, those are arguments  
21 that are going to be in this case. This just isn't relevant.

22 THE COURT: Well, nonetheless, I do think that the  
23 Government's -- to the extent there may be arguments that the  
24 Government has made or will make to the jury that Retrophin  
25 was the victim of this wire fraud, in part, because

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1 settlements were paid to investors to whom Retrophin had no  
2 obligation or no reason to be concerned about its exposure or  
3 the down side of litigation, or litigation risk or expense, it  
4 seems to me that the plaintiff's testimony that in fact these  
5 aren't idle claims. And that the fact that Retrophin was a  
6 new, start-up, thinly-funded, trying to make sure that it  
7 stayed off the media radar in terms of adverse publicity,  
8 making sure it would stay off any regulatory scrutiny, I think  
9 that it's a valid and relevant proffer of opinion testimony.  
10 I think that I would allow her testimony so long as she does  
11 not opine about any laws.

12 MR. KESSLER: I just -- we disagree but we  
13 understand. We want to make sure that Ms. Klein's testimony  
14 will be strictly limited to what a reasonable plaintiff's  
15 lawyer would have done or thought, not what Retrophin thought,  
16 the company would have thought, the defendant would have  
17 thought, Mr. Greebel would have thought, a defense lawyer  
18 would have thought, just what a plaintiff's attorney,  
19 hypothetical plaintiff's attorney, considering hypothetical  
20 claims under unidentified laws would have thought.

21 THE COURT: No expert is allowed to opine on an  
22 ultimate issue and tell the jury what facts to find based on  
23 their opinions.

24 MR. KESSLER: I understand.

25 THE COURT: You want a commitment from the defense?

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1 MR. KESSLER: Our concern is, we're concerned about  
2 the ultimate issue. But I didn't think that was what the  
3 opinion was going to be.

4 It's the suggestion that Ms. Klein's testimony will  
5 start veering into what a reasonable defense attorney might  
6 have thought, what a reasonable defendant would have thought,  
7 what a reasonable company would have thought. Those are not  
8 noticed; and second of all, not her area of expertise. If her  
9 testimony is confined to what a reasonable plaintiff's  
10 attorney would have thought, taking into account facts that  
11 Mr. Greebel didn't even know, okay, we disagree with the  
12 relevance but we understand.

13 THE COURT: Taking facts Mr. Greebel didn't know?

14 MR. KESSLER: Look at her disclosure. She looks a  
15 bunch of different things. I don't believe the defense is  
16 saying Mr. Greebel is aware of those facts. That is an issue  
17 of contention.

18 The basis for her claims, it relates to all sorts of  
19 things. Again, if that's her testimony we don't think it's  
20 relevant, but we understand. But we are deeply concerned if  
21 her testimony is going to get into what any defense attorney  
22 might have thought, defendant would have thought, anything  
23 like that -- reasonable, a reasonable defendant, a reasonable  
24 defense attorney, someone faced with a claim of the type that  
25 Ms. Klein would have brought, would have thought, something,



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1 would have done, those are totally improper.

2 So it's not so much a commitment from the defense as  
3 an understanding from the Court of what the specific area of  
4 her testimony will be.

5 THE COURT: My ruling was going to, A, caution her  
6 not to speak in the first person. But also it would be a  
7 reasonable plaintiff's attorney, not anything regarding the  
8 recipient of the reasonable plaintiff's attorneys  
9 communications regarding litigation.

10 MR. KESSLER: Okay.

11 THE COURT: Mr. Chan, you need to just instruct her  
12 if you're the one. Are you presenting her?

13 MR. CHAN: We haven't decided yet.

14 THE COURT: She needs to be instructed. There is  
15 enough of you, regardless of who presents her testimony, to  
16 instruct her that she must be confined to a reasonable  
17 plaintiff's attorney and what the reasonable plaintiff's  
18 attorney would do.

19 MR. CHAN: That's fine, your. Honor just so  
20 everyone knows, she does both. So if the Government --

21 THE COURT: Doesn't matter. I'm not going to allow  
22 it to go beyond that.

23 MR. CHAN: In the Government asks unfair questions  
24 of her, that's the Government opening the door. But we won't  
25 elicit it on direct.

JACOBS - DIRECT - MR. BRODSKY

1 MR. KESSLER: That's always the case. We  
2 understand.

3 THE COURT: If the jurors are here we'll bring them  
4 in.

5 Before the jury comes in, is there any expert who I  
6 didn't address?

7 MR. KESSLER: I think that's everyone. We covered  
8 Alan Johnson, we covered Mr. Lewis, we've covered Ferruolo,  
9 Klein Minkoff. That's it.

10 MR. CHAN: That's it.

11 THE COURT: Okay.

12 (Whereupon, the witness resumes the stand.)

13 (Jury enters the courtroom. Time 9:35 a.m.)

14 THE COURT: All jurors are present.

15 Good morning, members of the jury. Have a seat.

16 Mr. Brodsky, you may continue your direct.

17 MR. BRODSKY: Thank you, your Honor.

18 (Witness takes the witness stand.)

19 HAROLD JACOBS, called as a witness, having been previously  
20 first duly sworn/affirmed, was examined and testified further  
21 as follows:

22 DIRECT EXAMINATION

23 MR. BRODSKY:

24 Q Mr. Jacobs, yesterday we left off talking about  
25 settlement agreements. I had asked you, transcript page 8273

JACOBS - DIRECT - MR. BRODSKY

1 lines 9 through 15, I had asked you, "What did Mr. Greebel --  
2 did Mr. Greebel ask you any questions with releases?" You  
3 said, "Yes. He asked me if I had a form of release that I  
4 use. We discussed generally what goes into a release. I gave  
5 him a form of the release that I've used over the years and  
6 developed through a number of transactions. And I told him  
7 make sure if you do a settlement agreement have a release."

8 In your conversation with Mr. Greebel, what did you  
9 tell Mr. Greebel goes into a release?

10 MS. SMITH: Objection, your Honor.

11 THE COURT: I'm going to sustain that objection.

12 MR. BRODSKY: Your Honor, I'm following up on his  
13 testimony where he says we discussed generally what goes into  
14 a release.

15 THE COURT: The Government is making a hearsay  
16 objection, correct?

17 MS. SMITH: Yes, your Honor.

18 MR. BRODSKY: For the effect on the listener, your  
19 Honor, in terms of what he said.

20 MS. SMITH: Could we have a time period?

21 MR. BRODSKY: But I've already elicited the relevant  
22 time period.

23 THE COURT: When was the conversation, sir? So you  
24 can refresh our recollections about when you had this  
25 conversation with Mr. Greebel?

JACOBS - DIRECT - MR. BRODSKY

1 THE WITNESS: I believe somewhere between 2013,  
2 between '11, 2011, 2013. I don't know the specific time.

3 THE COURT: All right. I will overrule the  
4 objection.

5 And just instruct the jury that his response is not  
6 being offered for the truth, but rather for the effect on the  
7 listener.

8 MR. BRODSKY:

9 Q Mr. Jacobs, when you testified, quote, "We discussed  
10 generally what goes into a release," end quote, with  
11 Mr. Greebel, what did you tell Mr. Greebel goes into a  
12 release?

13 A I told Mr. Greebel that the release should be very broad.  
14 And it should indicate that usually you have a release in  
15 connection with a claim of some sort, so you want to say that  
16 you're getting a release from the beginning of time to the  
17 present so you make sure you get rid of all factors that are  
18 involved in that claim. And you want to make sure that you  
19 don't only ask the releasor to release you, but you say: The  
20 releasor, the heirs, beneficiaries, assignees, affiliates,  
21 persons connected with him; and if it's an entity you want to  
22 say, officers, directors, employees, agents, representatives,  
23 shareholders. You want as broad a release as possible so that  
24 claimant cannot come back and ask for additional money or  
25 stock or whatever he's asking for.

JACOBS - DIRECT - MR. BRODSKY

1 Q What did you mean by affiliates when you said affiliates?

2 A Someone who is control --

3 MS. SMITH: Objection, your Honor.

4 THE COURT: Sustained.

5 Q You testified that, quote, "I told him make sure if you  
6 do a settlement agreement have a release," end quote, that's  
7 on the transcript page 8273, line 14 to 15.

8 Did you explain to Mr. Greebel why he should make  
9 sure, if he does a settlement agreement, he should have a  
10 release, and that's a yes or no question.

11 A Yes.

12 Q What did you tell him?

13 A Can you repeat that question?

14 Q Yes. What did you discuss or tell Mr. Greebel with  
15 respect to why he should make sure if he does a settlement  
16 agreement he should have a release?

17 A Well, you want to make sure if you're settling a claim  
18 that you get that claimant to release any other claims he  
19 might have against the company or the person so that you  
20 protect yourself going forward.

21 Q And did you discuss the topic of doing a settlement  
22 versus litigation with Mr. Greebel?

23 MS. SMITH: Objection, your Honor.

24 THE COURT: Sustained. Rephrase.

25 Q Did you discuss the topic of, in your discussion with

JACOBS - DIRECT - MR. BRODSKY

1 respect to settlement agreements, did you discuss the topic of  
2 litigation with Mr. Greebel?

3 A Yes.

4 Q What did you say to Mr. Greebel?

5 MS. SMITH: Objection, your Honor. The subject of  
6 litigation?

7 THE COURT: I'll sustain the objection.

8 Q Did you discuss with Mr. Greebel with this discussion of  
9 a settlement agreement, settling a claim versus going forward  
10 with litigation?

11 MS. SMITH: Objection, your Honor.

12 MR. BRODSKY: I'll try to do it in a non-leading.

13 MS. SMITH: The objection is to hearsay.

14 THE COURT: It's a hearsay objection. I think,  
15 again, I'm going to ask the witness if this is still within  
16 the same conversation regarding the 2011 and 2013?

17 THE WITNESS: Yes.

18 THE COURT: And I'm trying to understand the  
19 question about litigation. Meaning?

20 MR. BRODSKY: Let me ask a better question.

21 Q Did you discuss the benefits, up-sides and down-sides, of  
22 settling a claim versus proceeding with litigation?

23 MS. SMITH: Objection, your Honor.

24 Can we have a brief sidebar?

25 (Continued on the next page.)

JACOBS - DIRECT - MR. BRODSKY

(Sidebar conference.)

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## SIDEBAR CONFERENCE.

1 MS. SMITH: Your Honor, I think the relevance of  
2 this --

3 MR. BRODSKY: I'm sorry?

4 MS. SMITH: I'll like to proffer what the relevance  
5 is in terms of effect on Mr. Greebel. This is a time period,  
6 he doesn't exactly when it took place. I will note that the  
7 time period today is different from the time period yesterday.

8 THE COURT: A lot broader.

9 MS. SMITH: A lot broader. After multiple  
10 conversations with defense counsel, and so.

11 THE COURT: Yesterday he said 2011 to 2012.

12 MR. BRODSKY: He said something like that. I'll get  
13 the transcript.

14 THE COURT: It's different.

15 MR. BRODSKY: I want to get the transcript.

16 MS. SMITH: This is again, we're driving a trunk  
17 through the hearsay exception. I've objected, I will continue  
18 to object. I recognize your Honor's ruling. I'm putting this  
19 on the record. Again, the objection for hearsay, state of  
20 mind, is for the declarant's state of mine. This declarant's  
21 state of mind is not relevant to the case.

22 The only way to get this testimony in is for the  
23 effect on the listener. I don't have the case in front of me,  
24 but it's the Gupta case, Second Circuit. And effect on the  
25 listener, if it were to confuse the jury under 403, for the



## SIDEBAR CONFERENCE.

1 fact of what is said, the assertion of fact, it has to have  
2 some sort of separate relevance.

3 Here there is an exception of fact what this witness  
4 told Mr. Greebel. And it has to have an effect on the  
5 listener that is separate and apart from what the assertion of  
6 fact is.

7 If the jury would be confused about this as sort of  
8 expert testimony, about why it's important to settle  
9 litigation versus the effect that this specific conversation  
10 that this individual has no idea when it took place had on  
11 Mr. Greebel, that is the burden of Mr. Brodsky to reach and to  
12 show. I don't believe he can do it.

13 MR. BRODSKY: Your Honor, respectfully, we did look  
14 at the case law last night. We anticipated continued  
15 objections. We have a brief on it. I don't have it with me.

16 THE COURT: I'm not going to consider these late  
17 briefs. You have got to stop this. You could have litigated  
18 this before.

19 MR. BRODSKY: The Government is coming up now at the  
20 last minute with US V. Gupta and they are citing it. But  
21 there are multiple Second Circuit cases --

22 THE COURT: I want there to be a case for what you  
23 are, what both sides are proffering. But don't tell me you  
24 have a brief in your back pocket and you're going to throw it  
25 before me at the last minute.

## SIDEBAR CONFERENCE.

1 MR. BRODSKY: I don't have the cases right before  
2 me, is what I'm saying.

3 THE COURT: Who has the brief among your lawyer  
4 team?

5 MR. BRODSKY: It was supposed to be here this  
6 morning. I don't know where it is right now. I apologize,  
7 your Honor.

8 But the case law shows --

9 MS. SMITH: Your Honor, for the record the Gupta  
10 case is 747 F.3d 111 at 132. Again Rule 403 requires the  
11 preclusion of evidence for which it would be exceedingly  
12 difficult for the jury to distinguish between what could  
13 possibly be the state of mind or intent of declarant or  
14 listener, and the truth of the assertions that are otherwise  
15 barred. So there is no hearsay exception that permits these  
16 statements to come in. We haven't heard one.

17 So the only possible reason to offer these is for  
18 the effect on the listener of Mr. Greebel. And I have not  
19 heard Mr. Brodsky give a relevant reason why it should come in  
20 for effect on the listener that would not confuse the jury as  
21 to the truth of the assertions that this witness is making.

22 MR. BRODSKY: Your Honor, respectfully, I believe  
23 the Government is leading the Court down the very wrong pass,  
24 opposite actually the Second Circuit case law, the Second  
25 Circuit which we looked at last night. There is extensive

SIDEBAR CONFERENCE.

1 Second Circuit case law that says when the state of mind of  
2 the defendant is the key issue in the case, the defense is  
3 allowed to elicit the relevant information that is provided to  
4 a defendant for the purposes of proving what information the  
5 defendant had at the time he made decisions. The case law  
6 actually says, the state of mind exception and the effect on  
7 the listener are the essentially the same. The case law says  
8 that. And we have multiple Second Circuit cases on it.

9 THE COURT: Just give me one.

10 MR. BRODSKY: I'm waiting for my colleagues to  
11 provide me with the cases, I apologize, your Honor.

12 Essentially, in the Second Circuit, and it's not  
13 just one, your Honor, it's a plethora of cases, where the  
14 state of mind of the defendant is at issue, the defendant has  
15 to be allowed relevant testimony about what information he  
16 received at the time he's given advice.

17 Here we have a witness who was his monitor, sat next  
18 to him on the Katten Muchin executive committees, essentially  
19 transitioning his book of business to Mr. Greebel, he actually  
20 billed time to MSMB --

21 THE COURT: Don't go over this whole litany of  
22 evidence. Just give me the law. Don't go over the evidence.  
23 I was hear, I saw it, I heard it.

24 MR. BRODSKY: I understand, your Honor. We're  
25 trying --

## SIDEBAR CONFERENCE.

1 MS. SMITH: In the meantime, under this theory we  
2 can call --

3 THE COURT: They walked away, wait.

4 MS. SMITH: Your Honor, under this theory we can  
5 call Mr. Mr. Greebel's law school professor and ask, what did  
6 Mr. Greebel learn in law school? Did he understand that he  
7 had a loyalty to his client? Did he understand in law school,  
8 prior to when this case happened, if he worked with his client  
9 to defraud, if he worked with Mr. Greebel (sic) to defraud  
10 Retrophin, that would be a crime. We can go find one of  
11 Mr. Greebel's law school professors and say, he sat there in  
12 class.

13 MR. BRODSKY: May I respond?

14 MR. PITLUCK: We're still arguing the defense  
15 argument. Everything he was told unhinged to any connection  
16 to an event in this case. MR. Jacobs testified to A two-year  
17 time period in the first instance, now one-year, unhinged to  
18 any conversation, unhinged to anything that had an effect.  
19 And is now offering anything that was told to the defendant at  
20 any point in time is now being used, is going to be used to  
21 argue to the jury at closing that this is what he was told,  
22 this is what was in his mind, this is why he did it. That is  
23 offered for the truth. The offer for the truth that his  
24 mentor, somebody who had nothing to do with this, who billed  
25 .8 hours to Retrophin, advised him that it was appropriate to

## SIDEBAR CONFERENCE.

1 do what he was doing. That is offered for are the truth.

2 That is particular to what the Gupta case says  
3 cannot happen. It cannot be the case that everything that was  
4 told to the defendant throughout this entire case is relevant.  
5 There is no stomping on the constitutional right. There is no  
6 issue on the constitutional rights. There are options. He  
7 can testify. He can do anything. He's not required to, but  
8 that does not mean you can have other people say what was in  
9 his mind because he was told. That's the bar on hearsay.

10 MS. SMITH: It's 403. If the jury will be confused,  
11 and I believe frankly what the defense argued, it his mentor,  
12 this is what he understood, that's for the truth not for the  
13 effect of the listener at a particular time.

14 THE COURT: If we instruct the jury that this is, A,  
15 not for the truth, they are not to assume that this advice is  
16 correct, right, that it's correct advice, but it's to be  
17 considered in the context of what Mr. Greebel understood based  
18 on this.

19 MR. PITLUCK: That's still prejudicial. You can't  
20 separate the truth from this, and they are not going to. They  
21 are going to argue that this is what is in his mind, this is  
22 why he did what he did.

23 Judge, the instruction, respectfully, we've been  
24 doing this throughout, for the truth does not limit the jury's  
25 consideration of what he's going to do.

SIDEBAR CONFERENCE.

1 He's talking to his mentor who obtained settlement  
2 agreements, broad release, that's exactly what he did. That's  
3 the argument. That's 403 and hearsay. It's offered for the  
4 truth, Judge.

5 Judge we're trying, we want to get this done, but we  
6 can't drive a truck through the hearsay objections. We're  
7 going to have a week long case for every attorney he ever  
8 worked with and what he said to them.

9 THE COURT: I'm going to give the defense --

10 MR. BRODSKY: I'm waiting for my phone.

11 THE COURT: Do you have a cite? One of you can't  
12 pull it up on the computer? Can't get access to the brief  
13 that you've been promising me? Just give me a case.

14 MR. BRODSKY: I have it your Honor, I'm sorry.

15 I'm going to site a series of cases for you for the  
16 proposition that defense is permitted to offer in statements  
17 made by a declarant on the witness stand to the defendant for  
18 purposes of demonstrating the defendant's state of mind.

19 One is United States Versus Vallee, 304 F. App'x 916  
20 Second Circuit. The appellant-defendant challenged the  
21 admission of a prior out of court statement, specifically the  
22 Government offered the testimony that she told the trial  
23 counsel that Carter was a sole witness against Vallee in a  
24 Canadian drug prosecution, affirming the conviction the Second  
25 Circuit said was the testimony about her own prior statements

SIDEBAR CONFERENCE.

1 wasn't hearsay, wasn't admitted for the truth, but rather to  
2 Vallee's state of mind.

3 MS. SMITH: This is the defendant, your Honor.

4 THE COURT: That was not the defendant's state of  
5 mind.

6 MR. BRODSKY: It was the Canadian prosecutor's  
7 statements to his trial counsel. The person who was on the  
8 witness stand was not the defendant.

9 In United States Versus Kanovsky, the defendant  
10 appealed his obstruction of justice conviction, 618 F.2d 229.  
11 It was for an allegation of false, evasive Grand Jury  
12 testimony. And rather than conclude that the testimony was  
13 inadmissible hearsay, as the appellant contended court held  
14 the testimony was not offered to show the truth, but rather  
15 the appellant's current state of mind of statements made to  
16 him by the AUSA.

17 MS. SMITH: These are all offered by the Government.  
18 It sounds like these are defendants appealing the admission of  
19 hearsay. You're saying that they are cases --

20 MR. BRODSKY: That was a defendant appealing the  
21 refusal of the Court to allow him to put into evidence the  
22 AUSA's statements to him in the Grand Jury, which he said  
23 explained his state of mind as to why he answered certain  
24 questions when he was found convicted for obstruction of.

25 MS. SMITH: But --

## SIDEBAR CONFERENCE.

1 MR. BRODSKY: I didn't interfere with you.

2 MS. SMITH: I'll wait.

3 MR. BRODSKY: There is this other Second Circuit  
4 case, your Honor. In United States Versus Kohan, 806 F.2d 18  
5 Second Circuit 1986.

6 The second Circuit stated that the testimony of the  
7 defendant appellant's roommate about the defendant's  
8 statements in their apartment was excluded erroneously. The  
9 defendant appellant was not basing his defense on the truth of  
10 those statements, but on the fact that they were made and the  
11 appellant believed them to be true. The Court held that the  
12 roommate's proffered testimony was admissible as  
13 circumstantial evidence of the defendant appellant's state of  
14 mind, his belief as to his co-defendant's activities. The  
15 exclusion of that testimony adversely affected his right to a  
16 fair trial. It was not harmless because, quote, "it would  
17 have been received on the appellant's direct case rather than  
18 during cross-examination of Government witnesses," end quote,  
19 would have corroborated the statements that he made; thereby,  
20 diminishing the effect of their self-serving nature.

21 In United States Versed DiMaria 727 F.2d 265 second  
22 Circuit case, 1984, the defense wanted to elicit an FBI's  
23 testimony of what he told other agents before he approached  
24 the defendant, and before his arrest. And the defendant said  
25 in response, "I thought you guys were investigating



## SIDEBAR CONFERENCE.

1 white-collar crime, what are you doing here?" The court  
2 accepted the defendant's argument that his statement about  
3 what he was doing here was not being offered. His statement  
4 about, "you guys are investigating white-collar crime, what  
5 are you doing," here reflected his state of mind and was  
6 admissible during his case to show his state of mind. So he  
7 was allowed to call the agent and testify as to his statement  
8 to the agent for his state of mind. And the Court reversed  
9 the conviction because the exclusion for the state of mind  
10 evidence was reversible error under the Government's argument  
11 that --

12 THE COURT: I'm not, we're not going to be read a  
13 letter that you haven't filed or given to the Government.  
14 You're not going to do this. You're not going to go into this  
15 anymore until I get a chance to read your letter, which you  
16 haven't filed and the Government needs to respond. I want to  
17 look at Second Circuit case myself. You're not going to  
18 elicit any further out of court statements or hearsay  
19 statements.

20 MR. BRODSKY: May I move to this topic, which I  
21 believe I --

22 THE COURT: I'm going to sustain.

23 MR. BRODSKY: -- connected directly to Retrophin.  
24 He remembers that in the summer, this is what he's told me, in  
25 the summer of 2013 Mr. Greebel asked him about a re-statement.

SIDEBAR CONFERENCE.

1 And he knows Mr. Greebel told him it was in connection with  
2 Retrophin. He knows it's in connection with Retrophin. He  
3 made statements to Mr. Greebel about making a, doing a  
4 re-statement. So that's connected to Retrophin. It's  
5 connected to the time period. It's a relevant issue. There  
6 is no undue prejudice or confusion. It directly goes to  
7 Mr. Greebel's state of mind. We should be able to elicit it,  
8 your Honor.

9 MS. SMITH: I was actually going to say,  
10 Mr. Brodsky's cases, I think if you look at them, in all of  
11 those cases, the conversation at issue is directly in  
12 connection with whatever the crime is being committed. These  
13 settlement --

14 So for example, what he has just proffered, we'll  
15 hear how it comes out, that sounds much closer to something of  
16 that might have had an effect on the defendant at the time of  
17 whatever was going on. Some conversation years before about  
18 settlement agreements in general, is not what any of these  
19 cases talking about. They're talking about a statement made  
20 in an apartment right before a crime is committed or a  
21 statement made to the person as they are lying or potentially  
22 lying in the Grand Jury. Those are very different things than  
23 conversations that happened years before on vague topics.

24 MR. BRODSKY: Your Honor, respectfully, the  
25 Government is essentially trying to exclude admissible

## SIDEBAR CONFERENCE.

1 evidence 401, 403.

2 THE COURT: I appreciate that. Give me your brief,  
3 file it, give the Government a copy now. I'm not going to  
4 have sidebar after sidebar and have you read a brief to me,  
5 again, that you haven't filed and you haven't served on the  
6 Government. I would like to look at the cases.

7 I do think that I've given you some latitude. I  
8 think that you're going all over the place with this witness  
9 on all sorts of topics that occurred last -- yesterday it was  
10 between 2011 and 2012 and today between 2011 and 2014.

11 MR. BRODSKY: 2013.

12 THE COURT: 2013. I think that we need to the look  
13 at the cases that you cite, look at the cases the Government  
14 may proffer. They haven't had an opportunity. This is  
15 somewhat of an ambush on me, all right.

16 MR. BRODSKY: Respectfully.

17 THE COURT: I feel it's an ambush on me. If you  
18 intend to go down this road, you should have given me notice.  
19 But once again, I'm left with I situation where I'm supposed  
20 to decide, what you characterize as a critical constitutional  
21 right. Well, you know what, I want to be right on that. But  
22 I'm not going to be right if you throw something at me that's  
23 multiple pages, single-spaced, reading cases to me, taking  
24 time from the jury. This is not going to happen anymore. I  
25 warned you. It's not going to happen anymore.

## SIDEBAR CONFERENCE.

1 MR. BRODSKY: Your Honor made a series of rulings,  
2 absolutely correct, over objections of the Government. I was  
3 following up on the conversations.

4 Second, your Honor, it is the Government who came to  
5 sidebar, and not me.

6 Third, it is the Government who --

7 THE COURT: Of course you're not going to object to  
8 your own questions.

9 Yesterday it was more specifically targeted to  
10 particular situations. This is like a three-year period, some  
11 conversation.

12 MR. BRODSKY: I will target more, your Honor.

13 THE COURT: All right. But I'm telling you right  
14 now --

15 MR. BRODSKY: I'll make it very targeted.

16 THE COURT: -- if you're soliciting hearsay, until I  
17 see and read those cases and hear from the Government, you're  
18 not going to be allowed to put it in. If you have to call  
19 Mr. Jacobs back, you'll have to do that. This is not how  
20 we're going to do it, question by question, go to sidebar,  
21 read me a brief that you haven't filed. That's just not  
22 appropriate.

23 MR. BRODSKY: I'm only reading the cases in  
24 preparation for the defense. Because the Government came over  
25 to the sidebar citing United States Versus Gupta. They didn't

SIDEBAR CONFERENCE.

1 file a brief. It was their obligation to reverse your Honor's  
2 rulings from yesterday and try to file a brief on it. It  
3 wasn't my obligation to file a brief when I agreed with your  
4 ruling.

5 THE COURT: I'm not saying you should file a brief.  
6 I told you before, that the 11th hour brief is not  
7 appropriate. These are issues -- if you wanted to solicit  
8 hearsay from this witness --

9 MR. BRODSKY: Okay, your Honor.

10 THE COURT: -- this is something you could have  
11 front-loaded in a motion to try to get a ruling, instead of  
12 having us bounce back and forth to sidebar every other  
13 question, every other document. That's my problem.

14 MR. BRODSKY: I understand.

15 THE COURT: The whole way this case has been  
16 presented...

17 MS. SMITH: For any of these, if we can get a clear  
18 time period before we start eliciting anything so we have an  
19 idea if that is connected.

20 MR. PITLUCK: So for example, when you were asking,  
21 when we asked Jackson Su about conversations we had with  
22 the -- he had the defendant -- there were objections and  
23 requests for time periods, whether slightly before December 4,  
24 or slightly after December 4. Now we're getting statements  
25 about in the summer of 2013, that could be late May it could

## SIDEBAR CONFERENCE.

1 be late August. That actually matters quite a bit in this  
2 case, potentially could matter quite a bit.

3 To have Mr. Jacobs say in the summer of the 2013 at  
4 some point I had some conversation, the relevance of that is  
5 getting pretty thin, unless there is something more specific.  
6 We ask that the witness give a better estimate of the time  
7 period because it's hard to evaluate the relevance of some  
8 statement made in summer of 2013, especially when the defense  
9 was very, very adamant whenever we asked about time periods  
10 with respect to conversations from Mr. Greebel and we would be  
11 specific. I'm not faulting them for wanting to know the  
12 specificity, I'm just saying we also want to know the  
13 specificity. They are not wrong to ask for the time period;  
14 we also would like to know the time period with the level of  
15 specificity they were seeking from us.

16 MR. BRODSKY: Your Honor, the other case I would  
17 site to your Honor --

18 THE COURT: Just give me a copy of the brief and  
19 serve them.

20 You take it first.

21 MS. SMITH: Thank you.

22 (End of sidebar conference.)

23 (Continued on the next page.)  
24  
25

JACOBS - DIRECT - MR. BRODSKY

1 BY MR. BRODSKY:

2 Q Mr. Jacobs, let me ask you, when you had this  
3 conversation with Mr. Greebel, let me ask you whether at some  
4 point, at any point, one way or the other, you recall any  
5 discussion with Mr. Greebel regarding specific settlement  
6 agreements?

7 A No.

8 Q And, for example, do you know somebody called Lindsay  
9 Rosenwald?

10 A I do know that name.

11 Q Do you recall any conversations -- do you know who  
12 Lindsay Rosenwald is, generally?

13 A I believe a venture capital investor.

14 Q Do you recall any conversations with Lindsay Rosenwald --  
15 with Mr. Greebel relating to Lindsay Rosenwald?

16 A No.

17 Q Any specific conversations?

18 A No.

19 Q Do you recall any specific conversations with Sarah  
20 Hassan, with Mr. Greebel, relating to Sarah Hassan?

21 A No.

22 Q Now, did there come a time when you had a conversation  
23 with Mr. Greebel on the topic of a restatement?

24 A Yes.

25 Q Approximately when?

JACOBS - DIRECT - MR. BRODSKY

1 A Sometime in the middle of 2013, maybe in the summer  
2 sometime.

3 Q And in connection with a specific company or in general?

4 A In connection with Retrophin.

5 Q And what do you remember telling Mr. Greebel regarding a  
6 restatement in -- a possible restatement in connection with  
7 Retrophin?

8 A I remember --

9 MS. SMITH: Objection, Your Honor.

10 THE COURT: Sustained.

11 THE WITNESS: Did you sustain that?

12 THE COURT: Yes, I did.

13 BY MR. BRODSKY:

14 Q Did Mr. Greebel ask you questions regarding a restatement  
15 in connection with Retrophin?

16 A Yes.

17 Q What questions did Mr. Greebel ask you?

18 A Generally questions concerning whether or not it is  
19 necessary to do a restatement in certain instances.

20 MR. BRODSKY: Your Honor, I offer the statements  
21 Mr. Jacobs made to Mr. Greebel in this conversation, not for  
22 the truth, but for the effect on the listener.

23 MS. SMITH: Government's going to object.

24 THE COURT: I am sustaining the objection.

25 BY MR. BRODSKY:



JACOBS - DIRECT - MR. BRODSKY

1 Q Did you, without saying what you -- what you said to him,  
2 did you answer Mr. Greebel's questions?

3 A Yes.

4 Q And did you bill for that time or not bill for that time?

5 A Probably not.

6 Q And did there come a time when you were being considered  
7 for Retrophin's board of directors?

8 A Yes.

9 Q Approximately when?

10 A Late 2013 or early 2014.

11 Q Had you served on any boards of directors before you were  
12 being considered for Retrophin's board?

13 A Yes, I had.

14 Q How many boards?

15 A I sat on three boards.

16 Q Private companies or public companies, or both?

17 A Two private companies and one large public company.

18 Q When you say a large public company, what do you mean by  
19 large?

20 A Billion dollars in revenue.

21 Q And how did you learn you were being -- well, withdrawn.

22 Describe how you -- how you learned you were being  
23 considered for a Retrophin's board, or describe what led to  
24 your -- you being considered for Retrophin's board?

25 A I discussed that with Evan.

JACOBS - DIRECT - MR. BRODSKY

1 Q Did Mr. Greebel ask you any questions?

2 A No.

3 Q Did there come a time when you learned whether or not you  
4 would get the position on Retrophin's board?

5 A Yes.

6 Q And did you join Retrophin's board?

7 A No.

8 Q Did you interview for the position?

9 A No.

10 Q Now, from 2012 through 2015, did you ever see drafts of  
11 Mr. Greebel's memoranda to the income partner committee?

12 A Yes.

13 Q How did you see those drafts?

14 A Evan gave them to me to look at.

15 Q And if we can turn to -- and when Mr. -- when  
16 approximately each year did Mr. Greebel give you a draft of  
17 his compensation memo to review?

18 A It was probably in either December or January of  
19 February, in that time period.

20 Q And upon receiving it, what did you do?

21 A I reviewed it and gave him comments.

22 Q And having sat on the equity partner compensation  
23 committee, did you have a reaction to the draft memos that  
24 Mr. Greebel gave you to be submitted to the income partner  
25 compensation committee?

JACOBS - DIRECT - MR. BRODSKY

1 MS. SMITH: Objection, Your Honor, to Mr. Jacobs'  
2 reaction.

3 THE COURT: Well, I am going to overrule the  
4 objection in terms of you were given the memos to review.

5 THE WITNESS: Yes.

6 THE COURT: And the question is whether you had a  
7 reaction to them.

8 THE WITNESS: Yes.

9 THE COURT: You may answer the question.

10 THE WITNESS: I had a reaction to them.

11 BY MR. BRODSKY:

12 Q What was your reaction to them?

13 A I thought they were very good. Very well written,  
14 spelled out exactly what he wanted to say, in the format that  
15 the compensation committee would want to receive, and I  
16 thought they were excellently drafted.

17 Q And were they similar since you had served on the equity  
18 partner compensation committee at Katten in the past, were  
19 they similar or dissimilar in kind to other compensation  
20 memos?

21 A It was basically the format that every partner worked on.

22 Q Now, let me ask you to turn to Government Exhibit 123-3  
23 in evidence.

24 A Is that in this folder?

25 Q And you will turn to your tab 26.

JACOBS - DIRECT - MR. BRODSKY

1 A Okay.

2 Q And if you turn to tab 26 and look at 123-3, let me ask  
3 you if you're familiar in general with some of the clients  
4 that Mr. Greebel billed time to during this relevant period,  
5 which is under Government Exhibit 123-3, for the periods from  
6 February 2012 to January 2013?

7 A I am familiar with some of them.

8 Q And are some of them your clients?

9 A Yes.

10 Q Which ones can you identify as your clients?

11 MS. SMITH: Objection, Your Honor. Just, privilege.

12 MR. BRODSKY: I'm sorry, I didn't hear the  
13 objection, Your Honor.

14 THE COURT: Well, I believe that there's privilege  
15 that has been asserted by the firm.

16 MR. BRODSKY: Your Honor, this is a Government  
17 Exhibit in evidence of a list of clients of Mr. Greebel. It  
18 is in evidence, Your Honor.

19 THE COURT: All right.

20 MS. SMITH: Your Honor?

21 (Continued on following page.)  
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23  
24  
25

JACOBS - DIRECT - MR. BRODSKY

1 THE COURT: What? Do we need to have a sidebar  
2 again?

3 MS. SMITH: I can do it very briefly, I just --

4 THE COURT: Okay. I mean, I just -- I'm  
5 recalling -- okay.

6 (Sidebar conference.)

7 (Continued on the next page.)

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## SIDEBAR

1 (WHEREUPON, the following proceedings were had at  
2 sidebar, out of the hearing of the open courtroom, to wit:)

3 MS. SMITH: I recognize the names of the clients  
4 are in evidence. I just know that there was an objection last  
5 time when there was any further discussion with the Winklevoss  
6 brothers, what work was done, which partners worked on it,  
7 what kinds of work was completed, you know, details about  
8 those actual client relationships. It is not my privilege so  
9 I don't know exactly the bounds of it, but in terms of any  
10 discussion of the types of work being done for other clients  
11 as opposed to the fact that time was billed. That's the --  
12 and, again, it is not really our objection, so much as I am  
13 just putting that --

14 MR. BRODSKY: Your Honor, respectfully, I find it --  
15 this is a Government Exhibit in evidence.

16 THE COURT: We understand that. But the question is  
17 whether you are going to solicit information from him about  
18 work that was done.

19 MR. BRODSKY: The nature of the client, what kind of  
20 client it is, I think when you look at this list, Your Honor,  
21 you see a list of clients without any information about it.  
22 There's a lot of public information, for example, about who  
23 Guggenheim Investment Management is, if you go to the web  
24 site. He has personal knowledge as to who Guggenheim is, and  
25 he can describe generally it's a multi-billion dollar asset

## SIDEBAR

1 manager. I wasn't going to go into specific transactions.

2 MS. SMITH: There was some of that yesterday, I  
3 mean, I didn't object, but, for example, I am surprised he  
4 would want to discuss this specific name of the client and  
5 details about --

6 MR. BRODSKY: It was public.

7 MS. SMITH: -- the work that they have -- specific  
8 work they had done certainly for a different client. I am  
9 just raising it.

10 MR. BRODSKY: Your Honor, if you recall the  
11 testimony, it was about 9.B, he was an in-house counsel there,  
12 he knows exactly what's public and not public. It's a public  
13 company.

14 MS. SMITH: It was Tanke --

15 MR. BRODSKY: Tanke Biosciences was also public. It  
16 went public. There's public information about Katten's  
17 representation. So I don't understand where the objection is  
18 coming from here. There's public information, for example,  
19 Winklevoss twins and what they did on Bitcoin, and I have  
20 documents to --

21 THE COURT: What the firm did for the Winklevoss  
22 brothers, I think --

23 MR. BRODSKY: That's public, too.

24 THE COURT: -- the attorney that was here earlier  
25 made objections when there was more detailed discussions,

## SIDEBAR

1 about the nature of the work.

2 MS. SMITH: It's fine. If you want to --

3 MR. MASTRO: It was when I got into doing trust and  
4 estate work them individually. There wasn't an objection to  
5 talking about them doing Bitcoin work for the Winklevoss.

6 MR. BRODSKY: It was public.

7 THE COURT: No, I am just saying that we had a  
8 representative here earlier, in the back row, who did make  
9 objections from time to time. So just be mindful of when  
10 those occurred and try to --

11 MS. SMITH: I assume Mr. Brodsky discussed it with  
12 Katten what the limits are for this kind of questioning. So  
13 we have had those discussion with our witnesses, so.

14 MR. BRODSKY: Your Honor, respectfully, may I ask --

15 THE COURT: Did you have discussions with the  
16 attorney for Katten who was here earlier?

17 MR. BRODSKY: I informed -- I spoke to Mr. Verde. I  
18 informed Mr. Verde the government had -- when he had made an  
19 objection about clients, I told Mr. Verde in response, I had  
20 asked him to make less redactions to the company. He said he  
21 did not want to make less redactions to the client list. So I  
22 respected that. I then informed him the government had  
23 admitted a list of clients. He was surprised by it and said  
24 the government had not informed him they were doing that, and  
25 he was a little bit bothered by it, but he said he understood



## SIDEBAR

1 that it is already in evidence. And I told him I was not  
2 going to elicit any testimony about specific transactions with  
3 any specific clients, and he said fine.

4 I said, what I was going to do was with the use of  
5 the compensation memos, to the extent Mr. Jacobs was generally  
6 familiar with them since he had seen them, I was not going to  
7 mention any client names, I was going to say, do you know  
8 whether this was an asset management -- what type of client  
9 this was. Don't tell us the --

10 THE COURT: Work.

11 MR. BRODSKY: The work.

12 MS. SMITH: Okay.

13 MR. BRODSKY: Your Honor, since we are at sidebar,  
14 can I take advantage of the fact that we are here and ask you,  
15 I elicited that the specific time period was the middle of  
16 2013. He was asked a specific question relating Retrophin on  
17 the restatement. We know from Mr. Jain's testimony that it  
18 was in the July 2013 time period that the restatement issue  
19 had come up, might have been June, but definitely by July of  
20 2013. So squarely within the admissible time period the  
21 restatement issue was coming up, Mr. Greebel was asking  
22 questions about it. It is relevant, and it is certainly  
23 connected to the actual evidence in the case. May I ask,  
24 why -- why can't I elicit what Mr. Jacobs said to Mr. Greebel  
25 about that?

## SIDEBAR

1           THE COURT: Well, what I told you when we were here  
2 last at the sidebar, that because you and the government had  
3 differing views of what the Second Circuit allows and doesn't  
4 allow on evidence that is hearsay being proffered for its  
5 effect on the listener, that I was going to sustain all  
6 hearsay objections going forward until I have an opportunity  
7 to look at those cases. That was the only reason why I  
8 sustained it. When she made an objection, she said it was  
9 based on hearsay. I would want to look at those cases. I  
10 don't want to make a mistake.

11           MR. BRODSKY: I understand.

12           THE COURT: And, you know, I will try to look at  
13 those cases and see if we can reach a different result on my  
14 ruling on the objection, as soon as I can, but I can't do it  
15 right now, obviously.

16           MR. BRODSKY: I thought the government's basis for  
17 their objection was potential confusion of the issues and not  
18 a particular date. Here we have a particular date totally  
19 related to Retrophin that's squarely within the restatement.  
20 Even under any consideration of Second Circuit case law,  
21 wherever you land, this is directly relevant and on point  
22 without any 403 issues.

23           THE COURT: I thought when I asked her the basis, I  
24 thought she confirmed it was hearsay, and that's why I  
25 sustained it. If you want to re-think your objection --

## SIDEBAR

1 MS. SMITH: We don't have a specific date. He said  
2 restatements generally, and what general circumstances  
3 people --

4 THE COURT: In connection with --

5 MS. SMITH: Because he had a restatement, but to say  
6 he brought the Retrophin restatements with him --

7 THE COURT: I thought it was a 2013 date, wasn't it?

8 MS. SMITH: Yes.

9 THE COURT: Was it summer?

10 MS. SMITH: Summer.

11 THE COURT: In connection with Retrophin. I mean,  
12 that's --

13 MR. KESSLER: Retrophin arises in August or very  
14 late July.

15 MR. BRODSKY: That's the summer.

16 MR. KESSLER: If the statement is in June, it has no  
17 relevance. I mean, we know what the statement is -- if the  
18 statement -- it is important in a restatement to make sure  
19 XYZ, and XYZ has nothing do with this restatement, then, you  
20 know, then it wouldn't be.

21 MR. BRODSKY: Your Honor, the case law is not going  
22 to change based on this, which is that their objection is that  
23 it is not June, it could be June --

24 THE COURT: That's --

25 MR. BRODSKY: They are cutting it so finely, it'll

## SIDEBAR

1 never be able to be admitted into evidence.

2 THE COURT: It's close enough, temporal period, I  
3 think it could be appropriate. But, you know, you had made a  
4 hearsay objection, so I just -- the effect on the listener may  
5 be more appropriate in this case.

6 MS. SMITH: I am going to continue to object, so,  
7 because I still think this is --

8 THE COURT: On every single one?

9 MS. SMITH: It depends. I don't know when exactly  
10 it took place. I don't know what the witness is going to say.  
11 I don't know if he said restatements generally. We talked  
12 about settlement agreements generally.

13 THE COURT: He said a restatement for Retrophin in  
14 summer of 20 --

15 MS. SMITH: Did you discuss restatements generally.  
16 That was the next question.

17 MR. BRODSKY: I will specify, Your Honor, in -- I  
18 will ask directly following up to the summer of 2013, when you  
19 were talking about a restatement in connection with Retrophin,  
20 what did you say to Mr. Greebel?

21 THE COURT: What I would like to do is this. Just  
22 ask --

23 MS. SMITH: First, what questions did he ask, right?  
24 Because --

25 THE COURT: He did elicit that.

## SIDEBAR

1 MR. BRODSKY: I don't want it to be asked and  
2 answered.

3 MS. SMITH: That's my problem.

4 THE COURT: It was a very general response.

5 But what I would like to ask the parties to consider  
6 is to -- I understand your objection, and I think it is a  
7 valid one, and I do want to look at the case law. But if it  
8 is fairly targeted and tied to the specific event in the  
9 record, as that question was, I would just ask you to consider  
10 withdrawing it. I do think that we have had a series of  
11 questions that -- you know, I gave you latitude, and I felt  
12 like you tried to --

13 MR. BRODSKY: Persuade you.

14 THE COURT: -- enlarge it. No, no.

15 MR. BRODSKY: I didn't mean to enlarge it,  
16 Your Honor. I didn't mean to.

17 THE COURT: I think it pushed the boundaries of  
18 what I was trying to do in being lenient in terms of that  
19 ruling. But when you start to ask these general questions  
20 that are extended over a temporal period of years, I just  
21 think it is, without tethering it to something that's in this  
22 case --

23 MR. BRODSKY: I won't do that, Your Honor.

24 THE COURT: Well, I would like to think that that  
25 last -- I mean, the reason I did sustain the objection was

## SIDEBAR

1 because I was very troubled by what had gone on, and I felt  
2 the government would -- had not been able to respond to the  
3 letter. I am just looking up now to see whether you actually  
4 even filed that letter. I don't know that you have, but I  
5 just think it is unfair, and it's unfair, as I said, not just  
6 to the progress of this case, and it has an effect on  
7 Mr. Greebel because it may require prolonging this trial and  
8 losing jurors if Mr. Jacobs has to come back, but it's grossly  
9 unfair to the government, and, frankly, in terms of my ability  
10 to make what I think are the best sound rulings I can, it  
11 makes it very difficult when you throw up a multi-page letter  
12 at me at sidebar --

13 MR. BRODSKY: Your Honor, we weren't --

14 THE COURT: -- which should have been front-loaded  
15 prior to trial.

16 MR. BRODSKY: We were not planning on doing that,  
17 actually. We respected Your Honor's rulings yesterday. We  
18 thought it would continue. The government, when they came  
19 forward with the US v. Gupta case, we were thinking the  
20 government would have a midnight filing or morning filing on  
21 this. And so we wanted this prepared in response. We did not  
22 intend to file it, unless the government came forward.

23 THE COURT: The point is, it's fairly, narrowly  
24 tailored and targeted to events yesterday, and this morning it  
25 was wide open. And that's why I think the objections --

## SIDEBAR

1 MR. BRODSKY: Your Honor, I'll just submit the  
2 restatements, and I will move onto the comp memos, and then I  
3 will not go back to the other areas. And I don't want to -- I  
4 don't want to delay Your Honor's proceedings.

5 THE COURT: It is all of our proceedings.

6 MR. BRODSKY: All our proceedings.

7 THE COURT: But --

8 MS. SMITH: I am going to maintain my objection. I  
9 don't think I have specificity and I have no proffer of what  
10 the witness is going to say. I understand what ruling  
11 Your Honor is going to make. So that's where we are.

12 MR. KESSLER: It's hard to evaluate the effect on  
13 the listener without knowing what was said.

14 MS. SMITH: Right.

15 MR. KESSLER: To know if it could have a relevant  
16 effect.

17 THE COURT: Will you not give them a proffer?

18 MR. BRODSKY: Repeatedly, Your Honor, I have  
19 requested repeated proffers on all sorts of statements from  
20 the government. They came to sidebar, and they refused. And  
21 I noticed it. I said, look. I am asking for a proffer, and  
22 they repeatedly refused. And I feel like once they did that,  
23 they set in motion that no party should be proffering what  
24 their statements are, and I feel like it is a double standard  
25 if the government is asking us to do something they were

## SIDEBAR

1 refusing to do at our request.

2 MS. SMITH: I am -- we are not going to get into it.  
3 I think there's very different kind of landscape in terms of  
4 what information we have about this witness and what  
5 information defense had about their witnesses. That is our  
6 objection, without a further proffer. I have to object, I may  
7 seek to strike depending on what it is.

8 THE COURT: I will maintain my ruling, and we will  
9 just keep moving.

10 MR. BRODSKY: Even with respect to the restatement  
11 issue? Because it is narrowly tailored, and it is directly  
12 relevant to Retrophin. It is the last one I would elicit, and  
13 then I would move on to the comp memos. And then I will move  
14 on.

15 MS. SMITH: Why don't you just proffer what the  
16 witness would say, and if judge agrees that it is specific  
17 enough, then we will do it, and she will overrule me.

18 THE COURT: Or if I allow the question and it  
19 appears to be --

20 MR. BRODSKY: I know the risk of a strike. I  
21 believe -- I don't want to proffer, Your Honor, respectfully,  
22 because he is 70-plus something years old, and, respectfully,  
23 Your Honor, I have asked him questions, and I know you believe  
24 he's very smart. He is. But when I have talked to him over  
25 the last two years, I have noticed that on some days he does



## SIDEBAR

1 remember events, and then on other days there are days that he  
2 does not remember a particular event.

3 And I try to use the documents and the memos to  
4 refresh his recollection, and that's why I went through the  
5 comp memos hoping he would remember certain meetings.

6 THE COURT: Why don't we continue with that line of  
7 questioning, all right, and just because we are in the middle  
8 of the --

9 MR. BRODSKY: Comp memos.

10 THE COURT: -- comp memos, and then if you want to  
11 circle back and try again and lay a specifically tailored set  
12 of questions for this witness, and I will make my ruling  
13 depending on if the government objects or doesn't object. I  
14 am going -- if they don't object, we will hear from him and  
15 if --

16 MR. BRODSKY: The government's always going to  
17 object.

18 THE COURT: If they object -- well, they might. If  
19 they object and if I overrule it and he says something, then  
20 you move to strike, I will consider that.

21 MR. BRODSKY: Thank you.

22 (Sidebar conference ends.)

23 (Continued on the next page.)

24

25

JACOBS - DIRECT - MR. BRODSKY

1 (Open court.)

BY MR. BRODSKY:

2 Q When we left last off, you were going to -- I had asked

3 you if you could identify the ones -- the clients listed in

4 Government Exhibit 123-3, which covers the period from

5 February 2012 to January 2013, which clients were your clients

6 at -- while you were at Katten.

7 Would you please identify them, generally. I mean,

8 as best as you can remember.

9 A You want the names?

10 Q Yes. They are in the record, if you can go

11 alphabetically and just identify them.

12 A Alexander Capital. John Bivona. China Electronics.

13 Felix Investments. LuxeYard.

14 THE COURT: Sorry, what was that?

15 THE WITNESS: LuxeYard. L-u-x-e-Y-a-r-d.

16 Northlight Financial. Redwood Fund. Tanke

17 BioSciences. I believe that's all of them.

18 BY MR. BRODSKY:

19 Q And let me go back and ask you just in general the type

20 of client Alexander Capital was?

21 A It was a small investment bank.

22 Q And John V. Bivona, just an individual?

23 A He was an individual, but he was chairman of that -- he

24 was an officer of that brokerage firm.

25 Q A large brokerage firm or a small brokerage firm?

JACOBS - DIRECT - MR. BRODSKY

1 A Medium, small. On the small side.

2 Q China Electronics Holdings?

3 A China Electronics was a Chinese company that wanted to go  
4 public in the United States.

5 Q Felix Investments?

6 A That was part of Alexander Capital. They were the  
7 brokerage firm.

8 Q LuxeYard?

9 A Was a company we were doing some transactions for.

10 Q Northlight Financial?

11 A It was a private equity company.

12 Q Is this where Mr. Chris Jahrmarkt and Michael Jahrmarkt,  
13 the people you talked about yesterday?

14 A Yes. Michael Jahrmarkt and Chris Jahrmarkt worked at  
15 Northlight.

16 Q Redwood?

17 A Redwood was a small fund that did some financings that we  
18 did work for them.

19 Q Tanke BioSciences Corporation?

20 A It was a Chinese company that wanted to go public in the  
21 United States.

22 Q If you scroll over on Tanke BioSciences, there's, under  
23 write-offs, there's 64,962. Column 1, 2, 3, 4, 5. Do you see  
24 that?

25 A Yes.

JACOBS - DIRECT - MR. BRODSKY

1 Q And do you have an explanation for the write off in  
2 connection with Tanke BioSciences?

3 MS. SMITH: Objection to relevance.

4 THE COURT: Sustained.

5 BY MR. BRODSKY:

6 Q What, in general, is a write-off, what does that mean, a  
7 write-off?

8 A Write-off is time you can't collect.

9 Q Now, let me ask you to look at in your binder the comp  
10 memo in tab 27, GX-121-3.

11 A Okay.

12 Q And if you would look at this, and it should be in front  
13 of you, when you saw this draft, do you remember in general  
14 looking at a draft of this memo prior to Mr. Greebel  
15 submitting it on or about February 10, 2012?

16 A I do.

17 Q And directing your attention to -- I would like to direct  
18 your attention to certain portions. Please don't say what the  
19 client's name is, and don't describe any specific transactions  
20 in connection with the client.

21 A Okay.

22 Q The fourth bullet point there says: I continued to  
23 expand our relationship with, and it is blacked out, which is  
24 the largest, blank, in the world.

25 In general, without mentioning the name, do you have

JACOBS - DIRECT - MR. BRODSKY

1 a general understanding of the type of client that was?

2 A It's blacked out. I'm not sure.

3 Q Fair enough.

4 If you go to the next page, on page 2, at the top,  
5 there's a discussion there of, "I helped Howard Cotton develop  
6 a new relationship with," and there's a blank. And then it  
7 goes on to say, based on this relationship we represented,  
8 blank, in their first, blank. Blank has advised us that this  
9 will be a new platform for them, they will be making similar  
10 investments in fiscal 2013, and we will be counsel in such  
11 transactions as well as the blank. Walter Weinberg and Henry  
12 Bregstein will be assisting us in forming the funds.

13 Do you have a general recollection of the nature of  
14 the company that's being discussed there?

15 A Yes, I do.

16 Q And without saying the name, what is the type of company  
17 that's being discussed there?

18 A It is a very large investment bank.

19 Q And by "investment bank," what do you mean?

20 A Invest bank that gives advice to clients, helps them  
21 raise money, invests in transactions. Just a large bank.

22 Q When you say "large," what do you mean by "large"?  
23 Multi-million dollar, multi-billion dollar, trillion dollar  
24 bank?

25 A Multi-billion.

JACOBS - DIRECT - MR. BRODSKY

1 Q In the next paragraph there's a discussion, of our  
2 representation of Chinese companies continued in fiscal 2012.  
3 We completed our first transaction first quarter fiscal 2012,  
4 and filed three registration statements in fiscal 2012.  
5 Practice continues to be active, however, per the firm's  
6 request, we have not developed additional Chinese clients  
7 until. And there's a blank there.

8 Without filling in the blank, do you have any  
9 personal knowledge of the representation of Chinese companies?

10 A Yes, I do.

11 Q And how do you have that knowledge?

12 A Well, I was retained to represent one of these Chinese  
13 companies that wanted to go public, and I mentioned it before,  
14 Tanke BioSciences. Evan and I worked on that registration and  
15 the other three registrations. We went to the firm at this  
16 point, and we wrote a memo to the management committee  
17 requesting that we form a small group to do registrations  
18 statements for Chinese companies. And Evan and I would be in  
19 that group, we would use other associates in the firm, and we  
20 also requested the ability to hire someone who spoke Chinese,  
21 which we eventually hired.

22 Q The next paragraph talks about, as a result of my  
23 long-standing relationship with the senior lawyer at, blank,  
24 Karen Ash and I developed it as a client. We currently  
25 represent them in a variety of licensing matters, and I am

JACOBS - DIRECT - MR. BRODSKY

1 hopeful that in the coming years we will represent it in  
2 additional matters.

3 Without, again, naming the client, do you have  
4 knowledge of what particular client that is?

5 A Yes, I do.

6 Q And without, again, mentioning the name, what type of  
7 client was it?

8 A They were in the fragrance business.

9 Q Was it a public company or a private company?

10 A Very large public company, international company.

11 Q The next paragraph says, despite the continued decrease  
12 in corporate transactions during the last fiscal year, I  
13 billed more than any other partner in our New York corporate  
14 department. I was one of the top billing corporate attorneys  
15 firm-wide.

16 Based on your observations and personal experience,  
17 do you know Mr. Greebel's billing at the New York corporate  
18 department during this time?

19 A Yes.

20 Q And what was that -- what was the type of billing that he  
21 did? In other words, describe in general his -- whether this  
22 was -- he was one of the top billing partners in the corporate  
23 attorneys for what?

24 A Well, I know for a fact he was one of the largest billers  
25 in the corporate department, you know, firm-wide. I know what

JACOBS - DIRECT - MR. BRODSKY

1 was being billed in New York, and I also knew what was being  
2 billed in other offices.

3 Q In the next paragraph there's, based on my strong  
4 relationship with the active investor, he introduced us to a  
5 private biotechnology company that retained us for a variety  
6 of matters in fiscal 2013, including an equity financing  
7 licensing agreements and a merger with a public company.

8 You have a general recollection of what that relates  
9 to?

10 A I knew he was doing activist work, but I'm not sure of  
11 the individual person.

12 Q Next it says, it also, blank, recently engaged us to do  
13 blank and a blank. Walter Weinberg is assisting in the blank,  
14 and Jack Governale is assisting in the blank. These funds  
15 represent a new direction in blank's business and demonstrates  
16 my efforts to expand our relationship with them.

17 Again, without describing the name of the client, do  
18 you have a general understanding of what the -- of the nature  
19 of the client?

20 A I knew that client. It was a small investment banking  
21 firm that was setting up some funds onshore and offshore. And  
22 Evan and I made a presentation to them when we brought them  
23 into the firm as a client.

24 Q Approximately when did you make this presentation?

25 A Sometime in, I think, 2012.



JACOBS - DIRECT - MR. BRODSKY

1 Q This memo is dated February 10, 2012. Is that --

2 A Oh, would have been 2011.

3 Q The next paragraph says, describes the hours on -- you

4 know, in addition to my billable hours, I spent approximately

5 1,100 hours on client development and preparing and presenting

6 the firm's roundtables, attending seminars and conferences,

7 and following up with the breakfast, lunch, or dinner

8 meetings. As I anticipated and advised the firm in February

9 2011, my billings in fiscal 2012 were consistent with my

10 performance in fiscal 2011, and I generated more business.

11 Are you familiar, based on your observations and

12 work with Mr. Greebel, as to the client development and

13 roundtables that Mr. Greebel participated in?

14 A I was.

15 Q Describe in general that, based on your observations and

16 your work with Mr. Greebel?

17 A Mr. Greebel did an amazing amount of client development

18 work with marketing, meeting with clients, lunches, dinners,

19 breakfast. Half his time in his life I think was going around

20 to meet clients, and he did a terrific job. And he set up

21 these roundtables, where they would have people coming in and

22 talking to the firm, and he would talk to them. And he did a

23 lot of work in this area, which was nonbillable.

24 Q And by nonbillable, what do you mean by that?

25 A The firm did not get paid for his time. It was his time

JACOBS - DIRECT - MR. BRODSKY

1 that he was spending on his own, on behalf of the firm.

2 Q The last paragraph says, based upon the new client  
3 relationships that I have developed or significantly assisted  
4 in developing revenue I generated and hours billed, I believe  
5 that I should receive a significantly higher bonus than last  
6 year and a significant increase in base salary.

7 Based on your experience on the equity partner  
8 income compensation -- equity partner compensation committee  
9 and your review of this memo in draft form, was this statement  
10 similar or dissimilar to what other people wrote in their  
11 memos?

12 A I would say it is similar to about 90 percent of the  
13 lawyers in the firm.

14 Q May I ask you to turn to government -- your next tab.  
15 For you it is tab 28, which is Government Exhibit 121-5, in  
16 evidence.

17 A That's February 2013?

18 Q Yes.

19 A I'm there.

20 Q Okay. Let me direct your attention to a few of the --  
21 did you review this draft memo prior to Mr. Greebel submitting  
22 it on or about February 8, 2013, in Government Exhibit 121-5?

23 A Yes.

24 Q In the paragraph where it says, fourth bullet point down,  
25 I continued to expanded our relationship with, blank, and

JACOBS - DIRECT - MR. BRODSKY

1 revenue derived from it increased to approximately \$445,000,  
2 which represented a 250 percent increase from the prior year.

3 Again, without mentioning the client's name or any  
4 specific transaction, would you describe generally, if you  
5 know, what this related to?

6 A I think I know that client.

7 Q And what -- without naming the client, please, what --  
8 generally, the type of business the client was in, if you  
9 know. If you don't, please don't guess.

10 A I won't.

11 I believe it was an exchange that -- a stock  
12 exchange that had been set up to trade in non -- unrestricted  
13 stock -- restricted stock. I'm sorry.

14 Q And the next bullet point, it says, I significantly  
15 strengthened our relationship with a, blank, which resulted in  
16 them moving significant portions of their work to us from  
17 Ropes & Gray.

18 Do you see that?

19 A Yes.

20 Q Are you familiar with -- again, without naming the  
21 specific client, are you familiar with that client?

22 A Yes, I am very familiar.

23 Q What type of client was it?

24 A It was a private equity firm.

25 Q And are you familiar with the name Ropes & Gray?

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1 A Yes.

2 Q What is Ropes & Gray?

3 A Ropes & Gray is a large law firm, has its main office in  
4 Boston, I believe, but it is all over the world.

5 Q And do you know from personal knowledge whether or not  
6 Mr. Greebel significantly strengthened the relationship with  
7 this client?

8 A He definitely strengthened the relationship.

9 Q Do you know whether or not from personal knowledge it  
10 resulted in them moving significant portions of their work to  
11 Katten from Ropes & Gray?

12 A Yes, I know.

13 Q And moving to the next bullet point, it says, I  
14 significantly strengthened our relationship with a, blank, and  
15 the client advised that we will receive a vast majority of the  
16 their deals.

17 Do you know -- without -- again, without naming a  
18 specific client, do you know the nature of that client?

19 A I am not sure on that one.

20 Q The next paragraph talks about, Howard Cotton and I  
21 continue to expand relationship with, blank. And he mentions  
22 Walter Weinberg and Henry Bregstein. Is that the same client,  
23 the investment bank that you talked about --

24 A Yes.

25 Q -- in connection with the last memo?

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1           At the top, on page 2 of Government Exhibit 121-5 in  
2 evidence, it says, I was the lead corporate partner on a,  
3 blank, on which we were initially retained by the, blank, and  
4 subsequently retained by, blank. Our subsequent retention was  
5 because they were very impressed with our work product, and  
6 when the deal changed, they had the opportunity to retain us.  
7 I also -- I was also the lead corporate partner on the blank,  
8 which was originated with Steve Eckhaus.

9           Are you, again, without naming the specific client  
10 or the nature of the transactions, would you describe in  
11 general -- are you familiar with the name of the -- the nature  
12 of the client?

13 A       I was -- I remember the transactions, but I don't  
14 remember what those companies did that he was retained on.

15 Q       Do you remember the type of company it was, whether it  
16 was a large company or a small company?

17 A       They were both large companies, but I don't remember  
18 their names, and I don't remember what they did.

19 Q       The next paragraph refers to, Howard Jacobs and I were  
20 referred to, blank, to, blank, in connection with, blank. And  
21 it mentions Jack Governale, assisted us in the, blank, and  
22 Kathleen Moriarty and Peter Shea will be assisting us in the,  
23 blank.

24           Again, are you familiar with, have personal  
25 knowledge of the nature of that matter, without naming a

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1 specific client?

2 A I am.

3 Q What type of client was it?

4 A This was a small investment bank that was starting to set  
5 up funds onshore and offshore in order to raise money to make  
6 investments in other companies.

7 Q Is this the same that you were referring to in a prior  
8 compensation memo?

9 A Yes. But here they were expanding their business. We  
10 had never done work for them in this area, but Evan and I made  
11 a presentation to them, I would say primarily Evan, but we  
12 made a presentation to them about our ability to do fund work.  
13 And they retained us, even though they had never done work  
14 with us in this particular area.

15 Q And the next paragraph says, due to my long-standing  
16 relationship with the founder and CEO of, blank, we were  
17 retained to, blank. This new business for, blank, has been so  
18 successful that the, blank, and refers to Jack Governale and  
19 the relationship.

20 What -- do you have a general recollection of what  
21 the nature of this client was?

22 A No.

23 Q There's, in the next paragraph, a statement of, I billed  
24 approximately 150 hours in writing a chapter which will appear  
25 in Mergers and Acquisitions Law 2013, by Aspatore Books, a

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1 Thompson Reuters business, as well as writing To Our Client  
2 memoranda on developments of the JOBS Act and recent  
3 bankruptcy developments that affect M&A transactions.

4 Are you familiar with Mr. Greebel's work in writing  
5 that chapter and doing that writing on To Our Client  
6 memoranda?

7 A I am.

8 Q What do you know about that?

9 A Just know that he worked on that, that article. It  
10 appeared in that book. Other an that, I don't know too much  
11 about it.

12 Q And are you familiar with To Our Client memoranda, what  
13 that relates to?

14 A Yes, we -- the corporate department, I believe, had a  
15 memo, a little newsletter that we used to send out to clients.  
16 The JOBS Act was adopted by Congress, and Evan wrote an  
17 article about it at that time.

18 Q The paragraph where it says, few paragraphs down, I am a  
19 member of the board of directors of the New York chapter of  
20 ACG, an organization of investment funds, and was asked to be  
21 on the nominating committee to help and identify and select  
22 future officers and board members.

23 Are you familiar, in general, with that chapter,  
24 that organization?

25 A Yes.

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1 Q What is that organization?

2 A Pretty clear, an organization of investment funds, and it  
3 was -- he was asked to do these things. He was active in that  
4 chapter.

5 Q Would you turn to the next tab, 29, Government Exhibit  
6 121-7.

7 A Can I just go to the last paragraph in that memo?

8 Q Sure, I'm sorry. Yes, please.

9 A This was very important for the New York corporate  
10 department as well. Evan and David Landau were the assigning  
11 partners in the corporate department, so they determined who  
12 got the work, who did the work, and by doing that, he also was  
13 able to mentor a lot of the younger people in the firm. And  
14 they both ran that department, the assigning group for a  
15 number of years. Took a lot of time. I'm sorry.

16 Q No.

17 Paragraph -- tab 29, if would you go to Government  
18 Exhibit 121-7 in evidence.

19 A Okay.

20 Q Looking at this memoranda, did you review a draft of this  
21 prior to Mr. Greebel submitting it on or about February 7,  
22 2014?

23 A I did.

24 Q And I would like to direct your attention to the third  
25 bullet point, where it says, I started our firm's virtual



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1 currency practice, which resulted in Katten being named, for  
2 the first time, one of the Financial Times US Innovative  
3 Lawyers.

4 Are you familiar with that virtual currency  
5 practice?

6 A I am.

7 Q What -- based on your personal knowledge, what do you  
8 know from the firm's virtual currency practice in leading up  
9 to February 27, 2014?

10 A The firm had no virtual currency practice in 2013, until  
11 Evan found that the Bitcoin company, the Bitcoin currency, was  
12 going to be immense. And he studied up on it, read up on it,  
13 met people on it, discussed it, and he was the virtual  
14 currency practice in the firm. And he became an expert way  
15 before anyone was talking a lot about Bitcoin, which was, I  
16 think, hit 15,000 this morning. This was a nondescript  
17 currency in 2013, and it is amazing how much of an expert he  
18 became in a short period of time.

19 Q In two paragraphs below that, it says, we created the  
20 first, blank, and are working with, blank, to develop, blank,  
21 which will be -- they will be debuting over the next 9 to 12  
22 months.

23 Are you familiar with that client?

24 A Yes.

25 Q And what are you familiar with there?

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1 A They were involved in the Bitcoin business, they were  
2 going to set up an exchange. Evan was working with them and  
3 working with the entities in New York to try to get this  
4 exchange passed. And I believe over a period of time it  
5 eventually did become exchanged, but this was kind of early on  
6 in the Bitcoin currency time.

7 Q And was there -- do you remember the public press  
8 relating to Katten Muchin's involvement in the development of  
9 this matter in that bullet point?

10 A This was the first time I think we were ever mentioned in  
11 one of these financial newsletters. And they came and they  
12 interviewed Evan, and they published a major article about him  
13 and this currency. It was -- it was an amazing article.

14 Q And what client, was it public, which client it related  
15 to?

16 A I don't know if it was current -- I don't know if it was  
17 public.

18 MR. BRODSKY: Let me -- may I approach, Your Honor?

19 THE COURT: Yes.

20 BY MR. BRODSKY:

21 Q DX-201-2, showing you DX201-2 for identification, and if  
22 you can turn to the newspaper article, which I will mark  
23 DX-201-3.

24 If you look at the newspaper article first, 201 --  
25 DX-201-3, was -- does this refresh your recollection as to

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1 whether in or about July 2013 it was public that Katten Muchin  
2 was selected to -- was representing this client?

3 A I don't think I have the newspaper article. What -- is  
4 it 201-3?

5 Q Yes.

6 A Okay, I have that.

7 Q 201-3.

8 A Yes. Those are the two brothers that he was  
9 representing.

10 Q Does it -- which brothers were they?

11 A The Winklevoss brothers. They're known because they  
12 indicated that they cofounded Facebook with Mark Zuckerberg,  
13 there was a lawsuit. They eventually settled, and they left  
14 Facebook.

15 Q And do you know, based on your personal knowledge at  
16 Katten, in February of 2014, whether this was significant or  
17 insignificant at Katten Muchin?

18 MS. SMITH: Objection, Your Honor.

19 THE COURT: You will have to rephrase your question.

20 BY MR. BRODSKY:

21 Q Do you know whether or not Katten Muchin's representation  
22 of the Winklevoss twins in connection with starting this  
23 exchange traded fund for Bitcoin was significant or  
24 insignificant for the law firm of Katten Muchin at this time?

25 MS. SMITH: Objection, Your Honor.

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1 THE COURT: I think the form of the question; is  
2 that correct?

3 MS. SMITH: Yes. And also speaking for the firm.

4 THE COURT: I think what you could do, Mr. Brodsky,  
5 is try to rephrase your question.

6 MR. BRODSKY: Sure.

7 BY MR. BRODSKY:

8 Q In your role at Katten in February of 2014, you were on  
9 the billing and collections committee, correct?

10 A Yes.

11 Q And what other -- did you have any other position of  
12 responsibility at Katten at that time?

13 A No.

14 Q From your perspective, from your personal observations,  
15 what did -- what was your view as to the significance or  
16 insignificance of the fact that there was public disclosure at  
17 Katten Muchin was selected to represent the Winklevoss  
18 brothers for plans for an exchange traded fund for Bitcoin?

19 MS. SMITH: Objection to relevance, Your Honor.

20 THE COURT: Overruled. You can answer the question.

21 THE WITNESS: This was a major accomplishment in the  
22 firm. First of all, the Winklevosses were very large  
23 investors in a number of other companies. For them to retain  
24 Evan to represent them was a major coup for Evan and the firm.  
25 We've never gotten anywhere near this. And this was really

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1 early on in the Bitcoin world. And it was just starting. And  
2 it just shows what a role he played in the developing this  
3 virtual currency with the firm and being an expert outside of  
4 the firm.

5 Q Let me direct your attention to the bottom of the page on  
6 Government Exhibit 121-7, where it says, as a result of our  
7 work on virtual currencies, we are the leading legal thought  
8 leader in the space. I have been interviewed twelve times by  
9 national periodicals, including the Wall Street Journal, the  
10 New York Times, Wired, and The Deal, and was quoted in  
11 articles with the firm identified at least five times.  
12 Kathleen Moriarty has also been interviewed repeatedly in  
13 connection with our work on virtual currencies, and we have  
14 received inbound calls from potential clients due to the press  
15 coverage that we have received, end quote.

16 Are you familiar with the articles that were  
17 published in connection with the virtual currency work?

18 A I saw some of them, yes. I am familiar with them.

19 Q And from your observations, was this significant or  
20 insignificant at the time in early 2014?

21 MS. SMITH: Objection, Your Honor.

22 THE COURT: Sustained. Rephrase.

23 BY MR. BRODSKY:

24 Q From your perspective and your observations, what, if  
25 any, effect did this have on Katten Muchin in or about 2013

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1 through February 7, 2014?

2 MS. SMITH: Objection, Your Honor.

3 THE COURT: I think the question should be  
4 rephrased.

5 MR. BRODSKY: Sorry. Struggling with my form today.

6 THE COURT: Just look at your question or think  
7 about your question, and just -- you need to be more -- you  
8 have -- need to be more specific.

9 BY MR. BRODSKY:

10 Q From your personal perspective, based on your  
11 observations at the firm of Katten Muchin, what was your view  
12 regarding the publication of interviews of Evan Greebel and  
13 Kathleen Moriarty in connection with the virtual currency  
14 work?

15 MS. SMITH: Objection to relevance.

16 THE COURT: I will overrule that objection.

17 You may answer that question.

18 THE WITNESS: This was really major for the firm.  
19 It was early on the virtual currency. No one knew about it.  
20 Evan had learned about it. He was interviewed. He brought  
21 our firm out -- it was marketing material by doing these  
22 articles in these different papers, and writing articles, and  
23 just being out there. This was a major accomplishment for  
24 Evan at this time.

25 BY MR. BRODSKY:

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1 Q If you look at 121-7, let me ask you one further question  
2 on this page. Where it says, due to my relationship with the  
3 CEO of Retrophin, Inc., a Nasdaq-listed company, we are their  
4 designated counsel for our corporate, litigation, and  
5 licensing matters. As such, Howard Cotton and Michael Gordon  
6 are representing Retrophin in three commercial litigations,  
7 and Jim Calder is representing Retrophin in a major antitrust  
8 lawsuit that initiated in federal court.

9 Do you have any personal knowledge as to --  
10 withdrawn. Before I get to that.

11 Who is or at this time was Howard Cotton and Michael  
12 Gordon at the law firm of Katten Muchin?

13 A Howard Cotton was a senior litigating partner, and  
14 Michael Gordon was an nonequity litigation partner.

15 Q And do you have any personal knowledge of the three  
16 commercial litigations that -- where Mr. Cotton and Michael  
17 Gordon were representing Retrophin?

18 A I have no personal involvement in any of those  
19 litigations. I do know that there were --

20 MS. SMITH: Objection, Your Honor.

21 THE COURT: Sustained.

22 MR. BRODSKY: The Court sustained, not the "I have  
23 no personal knowledge," I take it, Your Honor?

24 THE COURT: Well, that's the end of the answer.

25 MR. BRODSKY: Okay.

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1 DIRECT EXAMINATION (Continued)

2 BY MR. BRODSKY::

3 Q With respect to Jim Calder's representing Retrophin in a  
4 major antitrust lawsuit that is initiated in federal court,  
5 who was Jim Calder at this time in February 2014?

6 A He was a senior partner in the federal trade commission  
7 type of work and antitrust work.

8 Q On the next page of Government Exhibit 121-7, there's --  
9 in the third paragraph it mentions your name and says, Howard  
10 Jacobs and I strengthened our relationship with blank and  
11 worked on blank last year. They've advised us that we will be  
12 receiving a significant number of their deals going forward.  
13 Howard has been transitioning the client to me.

14 Are you familiar with that client?

15 A Yes.

16 Q And what is the nature of that client?

17 A It's a private equity firm.

18 Q And what -- and do you have personal knowledge of whether  
19 or not you were transitioning that client Mr. Greebel?  
20 Obviously a personal -- well, withdrawn.

21 Were you transitioning that client to Mr. Greebel at  
22 this time?

23 A I was.

24 Q And it makes a statement, They have advised us they will  
25 be receiving a significant number of the deals going forward.



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1 Do you have personal knowledge as to whether or not  
2 this client advised you and Mr. Greebel that the firm would be  
3 receiving a significant number of their deals going forward?

4 A Right, they actually told us that they were going to give  
5 us many more deals going forward.

6 (Exhibit published.)

7 Q Okay, finally moving to the next one, Government  
8 Exhibit 121-9, did you see a draft of this before Mr. Greebel  
9 submitted it on or about February 6, 2015?

10 A To the best of my recollection, I saw it.

11 Q Now, let me ask you to go back to the discussion with  
12 Mr. Greebel on the topic of a restatement.

13 In connection with that discussion of a restatement  
14 in the summer of 2013, in connection with Retrophin, do you  
15 remember where you were having this conversation with  
16 Mr. Greebel?

17 A It was either my office or his office.

18 Q And what do you recall telling Mr. Greebel with respect  
19 to a restatement in connection with Retrophin in the summer of  
20 2013?

21 MS. SMITH: Objection.

22 THE COURT: I'll overrule the objection.

23 A Can you just repeat that.

24 Q Yes.

25 What do you recall telling Mr. Greebel regarding a

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1 restatement in connection with Retrophin in the summer of  
2 2013?

3 A It was my view that the accountants would usually come  
4 forward and say whether or not you had to do a restraint of  
5 financial statements.

6 I indicated that my thought process was you should  
7 try to convince the accountants that a restatement was not  
8 necessary. But barring that, if a restatement had to be done,  
9 it was really up to the accountants and the chief financial  
10 officer. And, therefore, if they were recommending it, you  
11 probably had to do it.

12 Q And did you explain to Mr. Greebel why he should try  
13 convince the accountants that a restatement was not necessary?

14 MS. SMITH: Objection to leading.

15 THE COURT: Overruled.

16 This is with regard to this particular restatement.

17 THE WITNESS: Yes.

18 THE COURT: Okay.

19 Q Yes, in connection with a restatement relating to  
20 Retrophin in the summer of 2013, during your conversation with  
21 Mr. Greebel, did you tell Mr. Greebel your view as to why he  
22 should try to convince the accountants that a restatement was  
23 not necessary?

24 A My view was --

25 MS. SMITH: Objection to the question.

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1 THE COURT: The question is --

2 A It was my view.

3 I'm sorry.

4 MR. BRODSKY: I'll ask a more precise question.

5 Q Mr. Jacobs, in the summer of 2013, in connection with  
6 your conversation with Mr. Greebel relating to a  
7 restatement -- relating to Retrophin, during that  
8 conversation, did you tell Mr. Greebel why you believed he  
9 should try to convince the accountants that a restatement was  
10 not necessary?

11 A Yes.

12 Q What did you say to him in this conversation?

13 MS. SMITH: Objection, Your Honor.

14 THE COURT: I will give the instruction.

15 This line of questioning regarding what Mr. Jacobs  
16 told Mr. Greebel on the issue of a restatement for Retrophin  
17 in the summer of 2013 is not being offered for the truth, it's  
18 being offered to show the effect of the statement on the  
19 recipient or the listener.

20 Q Do you need me to restate the question, Mr. Jacobs?

21 A Sure.

22 MR. BRODSKY: Would you mind reading it back.

23 (Whereupon, the record was read.)

24 Q In the summer of 2013 in connection with the restatement  
25 relating to Retrophin, what do you say to Mr. Greebel about

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1 why you believed he should try to convince the accountants  
2 that a restatement was not necessary?

3 A If you do a restatement, you're actually restating the  
4 financial statements that the company's filed in their reports  
5 with the SEC. And, therefore, if you restate them, it usually  
6 comes out that either business, revenue, or profits are not as  
7 good as they were and, therefore, it would affect the stock  
8 price of the company's outstanding trade and stock, which may  
9 lead to potential stockholders lawsuits saying that if they  
10 knew knows facts they wouldn't have bought the stock, and it  
11 usually has some effect on the stock and the reputation of the  
12 company. Although many large companies have done  
13 restatements.

14 Q And in that same conversation, did you tell Mr. Greebel  
15 that --

16 MS. SMITH: Objection to leading.

17 THE COURT: Sustained.

18 Q You had mentioned that -- in this conversation that you  
19 told Mr. Greebel if the auditors insisted on a restatement,  
20 you should do -- you should agree.

21 A Yes.

22 Q Did you, in this same conversation, explain to  
23 Mr. Greebel -- tell Mr. Greebel why you believed that if the  
24 auditors insisted on doing a restatement, he should agree?

25 A It's basically --

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1 Q The first question is yes or no.

2 A Yes.

3 Q And what did you say to Mr. Greebel?

4 A Thank you.

5 Well basically it's the company's financial  
6 statements, the accountants are only auditing. But if the  
7 auditors want to restate it, you have no choice but to restate  
8 it.

9 Usually what happens is an accountants --

10 MS. SMITH: Objection to what usually happens.

11 THE COURT: Yes, this is just did you tell  
12 Mr. Greebel all of this.

13 THE WITNESS: Yes.

14 All right, then he can convey what it was he was  
15 explaining to Mr. Greebel about why he should follow the  
16 accountant's advice.

17 Q Mr. Jacobs, limit your answer not to just generally, but  
18 to what you told Mr. Greebel in the summer of 2013 when you  
19 were explaining why he should agree with the auditors if they  
20 insist on a restatement.

21 A It's hard to put into words, but let me just say that I  
22 just told him do it. If the auditors wanted it, do the  
23 restatement.

24 Q Now, before I finish up, Mr. Jacobs, I forgot to ask you.

25 Did we -- since your testimony, have you and I

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1 spoken?

2 A Yes.

3 Q Since yesterday?

4 A Yes.

5 Q How many occasions?

6 A Just once.

7 Q And when was the occasion that we spoke?

8 A This morning.

9 Q How long did we speak?

10 A Ten minutes.

11 Q And let me ask you the following:

12 You had testified that the firm had come to you to  
13 transition your work, your practice to Mr. Greebel.

14 Do you remember whether they came to you on one  
15 occasion, two occasions, or more than -- more than two  
16 occasions to do this?

17 A Two occasions.

18 Q When was the -- approximately when was the first  
19 occasion, to the best of your recollection?

20 A First occasion was in April of 2013. It might be March.  
21 March or April of 2013.

22 Q And when was the -- approximately when was the second  
23 occasion?

24 A February, March, or April 2014.

25 Q And what -- were you, in fact -- well, what, if anything,

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1 were you doing to transition your practice to Mr. Greebel in  
2 2013 and 2014?

3 A I introduced Evan to all of my clients, all of the people  
4 that I've done business with over the years. We did a lot of  
5 a marketing together so that we can develop business for him  
6 going forward.

7 I was supposed to retire from the firm, and  
8 basically the firm came to me and said you can stay on for  
9 another year if you transition your entire practice to Evan.  
10 Which I agreed to do.

11 Q What did you do to do that? Besides -- in addition to  
12 introducing Mr. Greebel to the clients.

13 A I introduced -- I went to marketing meetings with him.  
14 That's what I did. I introduced him to all my clients, my  
15 friends, everyone that we had done business with over the  
16 years. Even people Evan didn't know at that time. I took him  
17 to these meetings. I introduced him. Told the people that I  
18 was retiring and they should use Evan. It was -- I did as  
19 much as I could to get all my clients and friends to use Evan  
20 going forward.

21 Q And what was the result of those meetings and those  
22 marketing meetings with Mr. Greebel?

23 A Almost everyone that we met agreed to use Evan. All my  
24 clients, especially Northlight, which was my largest client,  
25 agreed to use Evan if I was there or not.

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1 Q Based on your observations, were there times when  
2 Mr. Greebel -- you had described a situation where  
3 Mr. Greebel, with respect to a particular company Mr. Greebel  
4 told you not to do work for that -- not doing work for that  
5 company moving forward.

6 MS. SMITH: Objection to the question.

7 THE COURT: Try to -- I think you need to rephrase  
8 that question.

9 MR. BRODSKY: Okay.

10 Q In connection with your testimony yesterday on the  
11 reverse merger for Tanke BioSciences.

12 Do you remember your testimony related to that?

13 A I do.

14 Q And do you remember your testimony in connection with  
15 Mr. Greebel's recommendation that because the financial  
16 statements were not satisfactory to him, he recommended not  
17 moving forward with that client?

18 A I remember that.

19 Q Was there any other situation that you remember when you  
20 were working with Mr. Greebel where Mr. Greebel had a similar  
21 recommendation to you?

22 A Yes.

23 Q Please describe that.

24 THE COURT: Without naming the client.

25 MR. BRODSKY: Without naming the client.



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1 THE COURT: Or the work.

2 A It was a client that was doing payday loans and auto  
3 loans. We were requested to represent the investors.

4 MS. SMITH: Your Honor, at this point can we have a  
5 very brief sidebar?

6 THE COURT: Yes.

7 Would you like a break?

8 THE JURY: Yes.

9 THE COURT: Thank you. You can all take a break.

10 (Jury exits the courtroom.)

11

12 (Continued on the next page.)

13 (Sidebar conference.)

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## SIDEBAR CONFERENCE

1 (The following occurred at sidebar.)

2 THE COURT: All right, have a seat.

3 MS. SMITH: Your Honor, I just wanted to bring to  
4 the Court's attention that Mr. Brodsky was testifying about or  
5 asking questions about Biosciences was not actually elicited  
6 yesterday. It took me a minute to find it in the transcript.  
7 The testimony was about what Mr. Greebel said in connection  
8 with the Tanke BioSciences reverse merger and it was struck as  
9 hearsay. It actually was not elicited.

10 So Mr. Brodsky just asked a question about something  
11 that was testified to yesterday about stopping a reverse  
12 merger being submitted in the financials, and that was not  
13 actually elicited yesterday, it was struck as hearsay.

14 MR. BRODSKY: I'll go back to the record, Your  
15 Honor, I remember --

16 THE COURT: Why don't you look at the record. Let's  
17 not argue until we come back.

18 MS. SMITH: It's transcript page 8195.

19 I believe the testimony was talking about the  
20 reverse merger for Tanke BioSciences. And the witness said,  
21 Evan and I tried to track down the answers to those questions.  
22 We were unable to do it and Evan came to me and said, since we  
23 can't do this, and I said objection to hearsay. You sustained  
24 it. And then the rest of the testimony was: The SEC gave us  
25 comments. The comments were too hard to track down. We

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1 decided not to go forward with that transaction, but nothing  
2 about what Mr. Greebel said or recommended in connection with  
3 that transaction.

4 MR. BRODSKY: I can go back and quote, Your Honor,  
5 we decided not to go forward with it. But I believe that  
6 before I can go back and elicit that's what Mr. Greebel  
7 recommended --

8 MS. SMITH: That was the hearsay that was not  
9 permitted.

10 THE COURT: That was objected to.

11 MS. SMITH: And I'm just concerned now that that  
12 statement that was not elicited originally is now embedded in  
13 Mr. Brodsky's question, as if it was actually testified to.

14 MR. BRODSKY: If may I take a moment, Your Honor, to  
15 look at the transcript.

16 THE COURT: Sure.

17 The question that the Government is objecting to was  
18 the question that said, today just now:

19 Do you remember your testimony in connection with  
20 Mr. Greebel's recommended statement.

21 Strike that, I'm just having trouble with the page.

22 (Pause.)

23 MR. BRODSKY: Your Honor, I think nothing was  
24 stricken, but on page 8195 the answer to the question was not  
25 stricken. Ms. Smith objected to hearsay after the following

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1 came out, and Your Honor said, No hearsay, sir. And the  
2 witness said, Excuse me? And the Court said, No hearsay may  
3 be conveyed. Okay.

4 So what's in the record not stricken is the  
5 following question and the following answer on 8195, 17 to 25.

6 "QUESTION: What happened with respect to the  
7 relationship, the firm relationship, with Tanke BioScience?

8 "ANSWER: We did a reverse merger. We worked on a  
9 registration statement. We filed with the SEC. With the SEC.  
10 The SEC came back with significant financial comments.

11 Comments about the financial statements contained in the  
12 registration statement. Evan and I tried to track down the  
13 answers to those questions. We were unable to do it and Evan  
14 came to me and said since -- and since said we can't do this."

15 MS. SMITH: Yes, and the fact that I objected after  
16 that first "Evan said since we can't do this," the objection  
17 was to that testimony which came out before I can give an  
18 objection. Obviously my objection to hearsay would strick if  
19 Evan said since we can't do this.

20 MR. BRODSKY: Whenever we've parties have moved to  
21 strike, we move to strike. I've been doing it and our team  
22 has been doing it and so has the Government been doing it with  
23 specificity.

24 And that is in the record along with the next  
25 statement, which was not objected to on 8196, lines 10 to

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1 15 -- 16:

2 By not going forward with the transaction with the  
3 firm, law firm, what happened to the billings with respect to  
4 the law firm?

5 "ANSWER: We kept whatever we collected. And we  
6 were owed some money at the end of the transaction, but we  
7 felt that it would be better not to go forward with the deal  
8 then to go forward with it."

9 And that's in the record. And so with all respect  
10 to the Government, it's in the record that with respect to a  
11 reverse merger on Tanke BioScience, Mr. Greebel did come to  
12 him and said we can't do it, and the firm decided not to do  
13 the deal and not to go forward.

14 MS. SMITH: What Mr. Brodsky's question was that  
15 since Mr. Greebel recommended we not do it, that's not in the  
16 record.

17 MR. BRODSKY: That's on line 8195, lines 24 to 25.

18 MS. SMITH: It says, since we can't do this, not  
19 Mr. Greebel recommended.

20 MR. BRODSKY: The line before says, "Evan came to me  
21 and since said since we can't do this."

22 MS. SMITH: I mean I recognize that Mr. Brodsky is  
23 using a technical loophole that I didn't specifically strike  
24 that. I will make sure I say "strike that" every single time  
25 that a hearsay is improperly elicited.

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1 THE COURT: I think that's the problem with the long  
2 narrative answers, which is something we did discuss at  
3 sidebar that the witness shouldn't -- because despite the fact  
4 that he's a lawyer, despite the fact that he should understand  
5 the hearsay rule, he keeps blurting out hearsay.

6 And so when it's out and there's an objection and  
7 it's sustained, which I did sustain, it's rather unfair to say  
8 I understand your point she didn't technically move to strike  
9 it but I did sustain the objection because he did testify as  
10 to hearsay.

11 And I think what -- I think you might be able to  
12 cure this by rephrasing your question, not in terms of a  
13 recommendation by Mr. Greebel but what you read later was that  
14 the firm decided not to go forward. Mr. Greebel said, "We  
15 can't do this." I don't know whether that's properly  
16 characterized as a recommendation, a statement of his view,  
17 whether that is something that Mr. Jacobs had -- whether had  
18 he his own view, I don't -- the concern is the way you asked  
19 the question this morning, it sounded like there's a  
20 recommendation by Mr. Greebel and Mr. Jacobs decided to follow  
21 it.

22 But as you have said over and over again, Mr. Jacobs  
23 is the mentor, he's the partner who is -- the equity partner  
24 who is bringing Mr. Greebel along and grooming him to be the  
25 replacement for his client. And so I think that the problem

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1 lies in your phrasing of the question this morning. And I do  
2 think that, yes, if there's an objection and it's sustained,  
3 it means that the hearsay should have been excluded and --

4 MR. BRODSKY: Your Honor --

5 THE COURT: -- whether we start interrupting the  
6 record any further to strike as opposed now --

7 MS. SMITH: Yes, Your Honor.

8 MR. BRODSKY: Well, Your Honor, may I respond.

9 THE COURT: You're speaking at the same time.

10 MR. BRODSKY: I'm sorry.

11 THE COURT: What were you saying?

12 MS. SMITH: I haven't been -- frankly, I wasn't  
13 watching the transcript closely enough to see that it actually  
14 came out to strike, but I will just say "strike" in the future  
15 if any word comes out of the witness' mouth before or after my  
16 objection. I'll just add it on.

17 MR. BRODSKY: Your Honor, a few points. One, I  
18 believe that the statement is not hearsay, which is -- it's  
19 not a recommendation, actually.

20 THE COURT: Then you characterized it.

21 MR. BRODSKY: I made a misstatement.

22 THE COURT: That's my point.

23 MR. BRODSKY: "Evan said we can't do this," in my  
24 view is a commend. It's not a hearsay statement, it is a, "we  
25 can't do this." That is not a hearsay statement. It is I'm

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1 not doing it. We're not doing it. We can't do this.

2 I don't think that's a hearsay statement, and I  
3 think it's admissible. The rest of it might have been  
4 potentially hearsay if he continued to describe what Evan said  
5 to him.

6 Second, Your Honor, you know, that's all I want to  
7 say. What I will do, Your Honor, is just quote from the  
8 transcript to be safe and not try to -- I was trying to  
9 summarize prior testimony, and I agree I didn't summarize it  
10 correctly. So I should just quote from the testimony, which  
11 is what I will do.

12 MS. SMITH: Your Honor, the quote was since we can't  
13 do this, not we can't do this, which is different. But  
14 Mr. Brodsky is leaving out the word "since," and so since we  
15 are being careful about strikes, I'm going to ask for the  
16 record that we strike the question that Mr. Brodsky said: And  
17 do you remember your testimony in connection with  
18 Mr. Greebel's recommendation that the statements were not  
19 satisfactory to him, he recommended not moving forward with  
20 that client.

21 And also strike the question and answer for the  
22 question: Was there anybody's situation who was working with  
23 Mr. Greebel where Mr. Greebel had a similar recommendation to  
24 you?

25 MR. BRODSKY: I'll withdraw the question, Your



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1 Honor. As Your Honor knows, questions are not evidence.

2 THE COURT: Well, I'll just take them out of the  
3 record in order to avoid any confusion. And the court  
4 reporter will strike the question that starts with: And do  
5 you remember your testimony, the answer.

6 And the question: Was there anybody's situation  
7 that you remember -- I think this is when you were working  
8 with Mr. Greebel where Mr. Greebel had a similar  
9 recommendation to you and the answer.

10 MR. BRODSKY: Yes, Your Honor.

11 THE COURT: Now, is it going to be necessary to  
12 instruct the jury that that is stricken?

13 MS. SMITH: Yes, Your Honor. You can just say the  
14 last -- I don't want to repeat it. Just say the last two  
15 questions and answers were stricken.

16 MR. BRODSKY: Your Honor, may I just withdraw it.

17 THE COURT: But the answers are there so you can't  
18 withdraw his answers, so I will just strike the question and  
19 the answer.

20 MR. BRODSKY: All right. I'll just go back to the  
21 quote. Thank you, Your Honor.

22 (Whereupon, a recess was taken at 11:27 a.m.)  
23  
24  
25

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1 THE COURT: Hi, have a seat.

2 We talked about the objection to the questions where  
3 Mr. Greebel had asked Mr. Jacobs to tell the jury what he said  
4 in response to Mr. Greebel's questions.

5 And the concern is whether this trial will be  
6 prolonged if we have Mr. Jacobs come back to finish testifying  
7 once the Government submits its response to this letter that  
8 was filed at 10:20 this morning.

9 It's three single-spaced pages of legal citations in  
10 support of their position that the defense should be able to  
11 elicit testimony from this witness as to what he told  
12 Mr. Greebel because it's relevant to his state of mind.

13 I did want to hear from the Government as to how you  
14 can both accommodate their concern; that is, in fairness, the  
15 concern that they should be able to respond, and getting this  
16 witness finished and moving through the other witnesses.

17 MS. SMITH: Your Honor, we're happy to respond  
18 briefly after this witness is finished. To the extent that  
19 Mr. Brodsky, it sounded like this was his last set of  
20 questions, he can correct me if I'm not wrong, but if he is  
21 not eliciting any further statements that were made to  
22 Mr. Greebel, we can leave the record as it is now, although  
23 our objection stands. If there's going to be extensive  
24 further or additional further elicitations of those kinds of  
25 statements, I think we want the opportunity to brief them.

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1 MR. BRODSKY: Your Honor, it's very clear that I  
2 can't attempt to elicit -- I don't want more sustained  
3 objections. I know the Government has indicated and made very  
4 clear they will object to any elicitation I make, if I can't  
5 pinpoint it to a very specific time, like I did with the  
6 restatement. I believe the Government is incorrect. I  
7 believe their view of Rule 104(1) and 403 is incorrect as well  
8 as state of mind.

9 I have plans to continue to ask Mr. Jacobs questions  
10 along those lines. I'm not doing it now because I understand  
11 the Government will object, as they said very clearly, and  
12 Your Honor has indicated that given you want the chance for  
13 the Government to respond, Your Honor would sustain the  
14 objection.

15 So that is the only reason why I'm doing it. I  
16 believe the Government's request to finish this question and  
17 have him recalled is extraordinarily prejudicial to us and  
18 damaging to our case, but that is the Government's position  
19 and I understand where we are.

20 So, you know, I believe the Government should  
21 respond to the letter and submit something and we should  
22 resolve this issue. We're very confident in our view of the  
23 law, and we do feel, Your Honor, that in a state-of-mind case,  
24 the Government is taking extraordinary positions to preclude  
25 the defense from eliciting relevant testimony from somebody

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1 who spoke to him and billed on the matters and spoke to him  
2 about very relevant issues, and I don't believe they can  
3 pinpoint a single case, and I could be proven wrong, Your  
4 Honor, but I don't believe under Rule 401 or 403 they will  
5 find a case which precluded defendant from admitting the  
6 statement because he couldn't pinpoint the time of a  
7 conversation.

8 And the 2011 to 2013, we have a man who, based on  
9 billing records does not recall specific communications. I  
10 don't think that's unreasonable. They put on witnesses like  
11 Mr. Aselage who did remember a single thing that happened.

12 THE COURT: Please stop --

13 MR. BRODSKY: I understand, Your Honor.

14 THE COURT: -- and let's just focus on the issues.  
15 Every time there's an argument, I don't need a rehash of what  
16 the Government witnesses did, or the defense witnesses did, or  
17 whether the Government objected or whether the defense  
18 objected. Stay focused on the issues. I don't want to hear  
19 it.

20 MR. BRODSKY: I understand, Your Honor, but I  
21 believe it's persuasive to our argument that if the Government  
22 was allowed to elicit testimony from a witness who had zero  
23 recall about a particular event, and that witness was able to  
24 testify in general about his view of the event, even over our  
25 objections at times, then I believe that the Government is

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1 taking a completely opposite position with respect to our  
2 witnesses and they're doing something extraordinary, which is  
3 in a state-of-mind case, which is all Mr. Greebel's intent,  
4 and all about what he knew and when he knew it, when we have a  
5 mentor on the stand, who's a senior partner at Katten who  
6 served in supervisory positions and was clearly -- his office  
7 right next to Mr. Greebel -- clearly advising him and  
8 conferring with him relating to all sorts of matters and  
9 didn't bill a lot of his time because he didn't have to  
10 because he was retiring. I believe we have established the  
11 relevance under 401.

12           There's no confusion because the settlement  
13 agreement and a release is directly at issue in the case. A  
14 consulting agreement and whether or not it's broad or narrow  
15 and the terms of the consulting agreement are directly at  
16 issue in the case. And if we can establish evidence that  
17 Mr. Greebel was taught and instructed and learned from his  
18 mentor about how to do certain things, and they are opposite  
19 of what the Government is arguing should have been done, then  
20 I believe it's powerful evidence of innocence and the  
21 Government is making a very, I think, precarious decision in  
22 affirmatively moving to prevent us from putting on that type  
23 of case.

24           MS. SMITH: Your Honor, again, the defense needs  
25 show the effects on a listener. There is no hearsay exception

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1 that's been proffered, and so it's a very narrow, not to the  
2 truth of a listener is not limited to the time period. The  
3 time period certainly helps show whether or not it would be  
4 something that would, in fact, have an effect on Mr. Greebel  
5 at the time he started committing the crime. But it is more  
6 than that, you need to be able to show a direct effect.

7 As Your Honor -- if Your Honor permitted, you know,  
8 all sorts of testimony about the consulting agreements in  
9 general, settlement agreements in general untethered to  
10 Retrophin sometime in a two-year span and at the point at  
11 which Mr. Greebel, you know, kind of went off the rails and  
12 started talking about, you know, much a broader topic was the  
13 point at which -- sorry, that Mr. Jacobs started talking about  
14 much broader topics and being asked about much broader topics  
15 was the point at which Your Honor actually constrained the  
16 testimony.

17 Mr. Brodsky has been allowed to elicit extensive  
18 testimony about what this individual told Mr. Greebel at  
19 various points in time. It's not always clear he actually has  
20 a specific recollection of the conversation and yet he's  
21 testified about what he thinks he might have said extensively.

22 We think that the Court's rulings so far, obviously  
23 our objections are what they are, but to the extent they've  
24 been sustained because they're appropriate, we don't think  
25 that this needs further briefing for this witness. I do think

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1 we will respond to the brief, because I think we're going to  
2 encounter this with future witnesses and we want to give Your  
3 Honor the law so that there's a sense, but if Mr. Brodsky  
4 wants to elicit the kind of stuff that Your Honor sustained,  
5 then he can call Mr. Jacobs back or, frankly, we have to take  
6 a break because the three of us are here we don't have, you  
7 know...

8 And then the other problem is we can't agree now  
9 that it would have any relevance. I think a lot of this  
10 testimony that has come out did not, in fact -- I think the  
11 argument that it had an effect on Mr. Greebel from a legal  
12 standpoint is not sound. But certainly because we don't know  
13 what Mr. Brodsky is going to elicit, we can't say what our  
14 objections would be or would not be. And so if they want to  
15 recall Mr. Jacobs for those conversations, I don't know what  
16 the topics are, then they can do that.

17 We had other issues where we had to put people on  
18 hold and move on. If they have their expert witness here,  
19 we're happy to move on to the next witness.

20 THE COURT: All right, well let's do this then,  
21 since it doesn't seem that there's a way forward. What I was  
22 hoping is that maybe we could, with Mr. Brodsky's agreement,  
23 to tether the questions regarding what Mr. Jacobs told  
24 Mr. Greebel on a given topic to a temporal period and to an  
25 issue that is in this case, then I would be likely to allow

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1 that. And I think Mr. Brodsky misunderstood that because I  
2 have overruled objections.

3 But if you're planning, Mr. Brodsky, to just ask  
4 open-ended questions about some period when Mr. Jacobs may  
5 have had a conversation with Mr. Greebel about any given topic  
6 that may touch on this case that may not be tethered to  
7 anything that is an event or, you know, relevant, directly  
8 relevant to the issues in the case, that's what I wanted know.

9 MR. BRODSKY: Well, Your Honor, there are a couple  
10 of areas where objections had been sustained this morning that  
11 were followups to conversations that over the Government's  
12 objection Your Honor allowed. And so, for example, in  
13 connection with a conversation that Mr. Jacobs had with  
14 Mr. Greebel regarding releases, I followed up today with  
15 respect to their conversation about settlements, the upsides  
16 and downsides of settlements versus litigation, and he  
17 testified he received the same conversation and, therefore, I  
18 was allowed to elicit a number of statements that were already  
19 over the Government's objection considered relevant past  
20 Rule 403 that were related to settlement agreements and  
21 releases. And when I tried to follow up continuing in that  
22 conversation, I was precluded from doing so.

23 THE COURT: Well, that was in my mind a problem with  
24 the question. Did you have conversations about litigation?  
25 That was the first question. The objection was sustained



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1 because that was so broad and general. And then it was: Did  
2 you have a conversation about litigation versus settlement?  
3 Again, very broad.

4 MR. BRODSKY: I did, Your Honor, the -- sorry, Your  
5 Honor.

6 THE COURT: No, I'm just saying that it just seemed  
7 such a broad and vague question. And even Mr. Jacobs I think  
8 at one point seemed a little confused as to what you were  
9 getting at.

10 MR. BRODSKY: Yes, Your Honor, those questions --

11 THE COURT: It's a 403 consideration --

12 MR. BRODSKY: Yes, Your Honor.

13 THE COURT: -- that the probative value at some  
14 point is going to be outweighed by the prejudice, undue  
15 prejudice and confusion to the jury if they have no idea why  
16 the question, or the answers that you're seeking are relevant  
17 to issues in this case is something you have to be mindful off  
18 because I know, and I've instructed the jury you're not  
19 offering it for the truth, but if the general view is that a  
20 general question about did you ever talk to him about  
21 litigation, and then there's an answer, yes, I did, and here's  
22 what I told him. But, you know, it becomes a concern that the  
23 jury is just going to be confused about why that conversation  
24 is untethered to anything of relevance or that is at issue.  
25 They may have difficulty with that.

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1 MR. BRODSKY: Your Honor, I understand the  
2 objections to the form of those questions. I asked a better  
3 question eventually, and my better question I believe was, did  
4 you discuss the upsides and downsides of litigation as opposed  
5 to settling?

6 THE COURT: In context to what?

7 MR. BRODSKY: In that conversation about settlement  
8 agreements and releases.

9 Release, he had already said, was all about trying  
10 to release claims from the beginning of time to the end of  
11 time. Those are my words not necessarily his words.

12 And so there is a debate in this case, a material  
13 issue of fact in dispute, about whether or not when  
14 Mr. Greebel receives Lindsay Rosenwald's letter about a  
15 lawsuit that they were going to file against MSMB, Martin  
16 Shkreli and Retrophin, whether or not Mr. Greebel, the  
17 Government says, didn't reasonably believe that this was a  
18 real threat to Retrophin.

19 THE COURT: I think we're talking about  
20 Mr. Jacobs --

21 MR. BRODSKY: Understood.

22 THE COURT: -- whether he saw that letter he never  
23 heard of Dr. Rosenwald. You asked those questions, you were  
24 not restrained at all.

25 MR. BRODSKY: Your Honor, if I may. He did hear of

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1 Rosenwald, and he knew he was a venture capitalist. And  
2 you're right, he didn't know in the context of settlement,  
3 Your Honor.

4 But in that conversation about settlement agreements  
5 and about a release, I eventually got to a good question,  
6 which was the upsides and -- did you discuss with Mr. Greebel  
7 in this conversation -- I'm trying to ask it in a non-leading  
8 way -- the upsides and the downsides, or the downsides of  
9 litigation versus settlement. That is an open-ended question.  
10 He said, "yes". I asked What did you say?

11 There is a fact in dispute regarding what  
12 information did Mr. Greebel have, what was his state of mind  
13 when he received Dr. Rosenwald's letter or other indications  
14 people were making claims.

15 The Government has taken the extreme position, with  
16 all respect to the Government, they're taking the position  
17 that, oh, if somebody receives that, there's no reasonable  
18 lawyer who would believe that, oh, that has nothing to do with  
19 Retrophin, I don't need to settle that claim, go ahead and  
20 file your lawsuit. That's the Government's position.

21 Our position is, any reasonable lawyer, any  
22 experienced lawyer, any inexperienced lawyer, would get that  
23 claim, know it's from Dr. Rosenwald, who is an extraordinary  
24 venture capitalist with extraordinary resources, and would  
25 take the claim.

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1           So having heard from Mr. Jacobs earlier during the  
2     period from 2011 to 2013 in the context of discussing  
3     settlement agreements and a release whether or not there's a  
4     benefit to litigation versus settlement, and what  
5     Mr. Greebel -- what Mr. Jacobs had to say to him is quite  
6     informative. And the Government I believe -- I don't think  
7     the jury would be confused in the least by it. I think the  
8     only confusion would be that the Government keeps objecting  
9     and jumping up and objecting.

10           I have learned from yesterday, and this is why I'm  
11     doing it, Your Honor, that I have to restate my question after  
12     a sidebar or an objection to Mr. Jacobs to get him back to  
13     where we were, and that's what I'm doing. But I don't  
14     understand why the Government can object in a valid way to my  
15     followup question in, there's a discussion of settlement  
16     agreements, it's already been admitted; there's a discussion  
17     of a release, and in that same conversation he talks about the  
18     upsides and downsides of settlement versus litigation.

19           I don't see how that's impermissible under Rule 401,  
20     the lowest possible standard possible making a fact of  
21     consequence more less likely, and I don't see how that  
22     confuses issues or is unduly prejudicial to the Government.

23           MS. SMITH: Your Honor, this is why it's being  
24     offered for the truth. He just tied it to the letter that  
25     Mr. Rosenwald sent.

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1           The idea that the conversation about what's the  
2   benefit of settling versus not settling. I mean we all went  
3   to law school. We don't need to hear that from Mr. Jacobs two  
4   years before this particular settlement and release and say  
5   somehow that that had an effect on Mr. Greebel that act --  
6   required him to act in a particular way when he got a letter  
7   from Dr. Rosenwald.

8           MR. BRODSKY: Is the Government going to stipulate  
9   that in front of the jury that any law student and any  
10   graduate of law school who received Dr. Rosenwald's claim  
11   would understand reasonably that there's a threat of  
12   litigation against Retrophin? Because as I understand it, the  
13   Government's taking the exact opposite position.

14          MS. SMITH: That's not what Mr. Jacobs is saying any  
15   way. It's not tied to Retrophin.

16          What I'm saying is anyone who went to law school,  
17   and even if don't go to law school, know that -- I mean we  
18   have lay people testify here that, you know, it's sometimes --  
19   litigation is expensive and so there are benefits to settling  
20   when you are faced with litigation. That is what it sounds  
21   like the general conversation was two years somewhere, you  
22   know, before this an agreement.

23           (Continued on next page.)  
24  
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## SIDEBAR

1 THE COURT: If I understand the Government's problem  
2 with these questions is, even if they're not offered for the  
3 truth, it can be confusing to the jury if then the answer, no  
4 matter what it might be, say he says, well, settling is always  
5 better than litigation and here's why, if the jury is then  
6 asked to infer that the settlement agreements were a better  
7 option than litigation, that would be an offer for the truth.

8 The concern is, yes, I want to be able to provide  
9 the jury with information about the effect on Mr. Greebel and  
10 how that might have -- and his state of mind, and why he took  
11 actions or didn't take certain actions. But as posed, I  
12 thought it was so amorphous. You can look at any threat of  
13 litigation and any plaintiff and any defendant and make a  
14 completely different assessment specific to that circumstance  
15 whether litigation is better than settlement. I don't think  
16 you can make a general, or you shouldn't have a general  
17 statement from this witness as though it were true that  
18 litigation may be better than settlement or settlement better  
19 than litigation. I think it's a case by case situation.

20 That was my intern, you were going to elicit a broad  
21 untethered response that would, although it was instructed to  
22 the jury it's not for the truth but for the listener, it would  
23 be so broad that it could lack probative value to any issue in  
24 this case ultimately.

25 MR. BRODSKY: It was definitely probative value.

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1 Whether or not litigation or settle, if you're in the position  
2 of Mr. Greebel, outside counsel of Retrophin and receiving  
3 information about Dr. Rosenwald and others --

4 Ms. Smith, let me finish, please. I ask you for a  
5 little time.

6 Second, the Government has repeatedly put in exhibit  
7 after exhibit for the effect on the listener. And repeatedly  
8 at sidebar objected to instructions during their case in chief  
9 repeatedly that this is being offered not for the truth but  
10 for the effect on the listener; and they took the position  
11 that, oh, that would be confusing to the jury to constantly do  
12 it.

13 And your Honor respected their position, and only  
14 during the case agent did we do that on a document by document  
15 basis. So the jury on a document by document basis, during  
16 the case agent's testimony, heard with individualized emails,  
17 that this e-mail, which was pure hearsay only for the effect  
18 on the listener, was admissible. So we have the Government's  
19 case in chief, with all respect, they are allowed to do it,  
20 but us --

21 THE COURT: All right, I'm --

22 MR. BRODSKY: I understand, your Honor.

23 THE COURT: Let me tell you about those exhibits.  
24 Those were documents that were submitted with Mr. Greebel on  
25 the e-mail and you were objecting to portions within that

## SIDEBAR

1 e-mail between Mr. Shkreli and Mr. Greebel or Mr. Greebel and  
2 one of the Retrophin individuals or alleged co-conspirators --

3 MR. BRODSKY: Yes, your Honor.

4 THE COURT: -- where there was inserted in that a  
5 statement from some other third-party.

6 MR. BRODSKY: Correct.

7 THE COURT: And your objection was to that being  
8 inserted. Because there was a colorable, good-faith argument  
9 that that third-party e-mail was necessary to give context and  
10 understanding --

11 MR. BRODSKY: Yes, your Honor.

12 THE COURT: -- to the responses that Mr. Greebel  
13 made or what he knew it was admissible. It's not the same  
14 thing as what you are doing.

15 MR. BRODSKY: Your Honor --

16 THE COURT: It's just not -- I, I resent and caution  
17 you against saying this was unfair and you're not being  
18 treated fairly. I bent over backwards.

19 MR. BRODSKY: I won't go to that.

20 THE COURT: Your examples are not --

21 MR. BRODSKY: With respect to this particular  
22 testimony, let me focus on Mr. Jacobs' testimony. I believe  
23 that a statement by Mr. Jacobs to Mr. Greebel that, for  
24 example, if Mr. Jacobs told Mr. Greebel when you represent a  
25 public company and you have a claim it is better to settle



## SIDEBAR

1 then that litigate and explaining why, does have an effect on  
2 Mr. Greebel as he practices law and what he does when he's  
3 representing Retrophin in 2013.

4 Yes, Mr. Jacobs can't tether this conversation to  
5 2011, 2012, or 2013. I believe from reasonable inferences  
6 that I would be able to argue it's 2013, because if you look  
7 at his list of clients, if you look at what the context is, I  
8 believe it was 2013. But I can't point to a document or to an  
9 e-mail because it wasn't in that, it was in the office of  
10 Mr. Jacobs or Mr. Greebel where this advice was given. I  
11 believe I have a relevant time period before these threats  
12 were made, in the mind of Mr. Greebel, coming from Mr. Jacobs  
13 is what he was told from a senior partner who represented  
14 public companies on a repeated basis, who tells him you better  
15 settle. Now if you get that --

16 MS. SMITH: That's not the testimony.

17 MR. BRODSKY: I'm proffering that that could be the  
18 testimony from Mr. Jacobs.

19 THE COURT: That it's always better, always settle.

20 MR. BRODSKY: Let's hear what he has to say. I  
21 believe Mr. Jacobs will say, if it's a claim against the  
22 company it's better settle it than litigate it if they are  
23 going to file the claim. I have to tell you, having been in  
24 practice, it's exactly right.

25 MS. SMITH: It's offered for the truth.

SIDEBAR

1 MR. BRODSKY: Excuse me, Ms. Smith.

2 It's the effect on the listener.

3 MS. SMITH: Because you think that --

4 MR. BRODSKY: Regardless whether it's true or not,  
5 it's the effect on the listener. It is a reasonable effect  
6 for the listener, for Mr. Greebel, to hear from Mr. Jacobs and  
7 change his state of mind. Why does the Government believe  
8 it's confusing to elicit evidence relating to Mr. Greebel's --  
9 what information he received from a mentor about what to do in  
10 this context, having already elicited statements related to  
11 that very conversation? I believe the Government's position  
12 is way out of bounds, way out of line with Rule 401, Rule 403.

13 MS. SMITH: The jury is going to hear it as this is  
14 what he was told to do, and this is what he did, as if that is  
15 the truth of what happened and the truth of what you should do  
16 in this situation. Basically using him as an expert witness  
17 and trying to say that this conversation was, which they can't  
18 pin down in time, yesterday he said between '11 and '12, today  
19 '11 and '13, after conversations with defense counsel. And  
20 now suddenly it's definitely the same settlement agreements  
21 that this is somehow offered for the effect on Mr. Greebel.

22 If that were the case, I suppose the argument would  
23 be Mr. Greebel at some point in these two years heard this  
24 conversation and once as a result did this in response to  
25 what, got the letter from the Rosenwald.

## SIDEBAR

1           They can't make that temporal connection. It is  
2     confusing. And it is in fact offered for the truth.  
3     Mr. Brodsky said ten time, reasonable advice, good advice. Of  
4     course that's what you would do, that's the argument that they  
5     are going to be making, it's for the truth.

6           Again, I think your Honor pointed out the difference  
7     between what the Government has already in terms of -- through  
8     the first thousand pages, the defense made the argument 18  
9     times and the Government once. So this is not --

10           THE COURT: What argument is that?

11           MS. SMITH: The idea that something should be  
12     admitted for the effect on the listener.

13           MR. BRODSKY: Your Honor --

14           THE COURT: Look, I think we've had enough. I was  
15     hoping that I could get the two of you to, the two sides, to  
16     come to some sort an approach that would not require more  
17     argument --

18           MR. BRODSKY: Yes, your Honor.

19           THE COURT: -- more contention, more submissions and  
20     more delays in this trial.

21           MR. BRODSKY: I appreciate that, your Honor.

22           THE COURT: At some point --

23           MR. BRODSKY: I appreciate it.

24           THE COURT: -- at some point this trial has to end.  
25     It seems to me that we have no choice but to proceed as we

SIDEBAR

1 are.

2 MR. BRODSKY: Understood, your Honor.

3 THE COURT: I tried.

4 MR. BRODSKY: I appreciate you trying, your Honor.

5 THE COURT: We'll bring the jury and I'll instruct  
6 them about the strikes.

7 (Whereupon, the witness resumes the stand.)

8 (Jury enters the courtroom.)

9 THE COURT: We have all jurors present. Have a  
10 seat.

11 Before we move forward, I have instructions for the  
12 jury about questions and responses that will be stricken from  
13 the record.

14 "Question: And do you remember your testimony in  
15 connection with Mr. Greebel's recommendations that statements  
16 were not satisfactory to him you, recommended not moving  
17 forward with that client?

18 "Answer: I remember that.

19 "Question: Was there anybody, was there any  
20 situation, anybody situation that you remember when you were  
21 working with Mr. Greebel where Mr. Greebel had a similar  
22 recommendation to you?

23 "Answer: Yes."

24 You may move forward.

25 MR. BRODSKY: Thank you, your Honor.

JACOBS - DIRECT BRODSKY

1 BY MR. BRODSKY::

2 Q Mr. Jacobs, let me quote the transcript to be more  
3 accurate about your testimony from yesterday. Page 8195, line  
4 17 to 25, you were asked, do you remember being asked this  
5 question and giving this answer: "What happened with respect  
6 to the relationship, the firm relationship, with Tanke  
7 BioScience?

8 "Answer: We did a reverse merger. We worked on a  
9 registration statement. We filed it with the SEC. The SEC  
10 came back with significant financial comments, comments about  
11 the financial statements contained in the registration  
12 statement. Evan and I tried to track down the answers to  
13 those questions, we were unable to do it. And Evan came to me  
14 and said -- and Evan came to me and since said, since we can't  
15 do this."

16 Do you remember that question and that answer?

17 A Yes.

18 Q And then you gave, there was on page 8196, lines ten  
19 through 16, the question, "By not going forward with the  
20 transaction, did the firm, law firm, what happened to the  
21 billings with respect to the law firm?

22 "Answer: We kept whatever we collected. We were  
23 owed some money at the end of the transaction, but we felt  
24 that it would be better not to go forward with the deal than  
25 to go forward with it," end quote.

JACOBS - DIRECT BRODSKY

1 Do you remember giving (sic) that question and  
2 giving that answer?

3 A Yes.

4 Q Was there any other situation similar to Tanke BioScience  
5 where you and Mr. Greebel decided not to go forward with the  
6 deal than to go forward with it?

7 A Yes.

8 Q Without naming the client or the with specificity of the  
9 transaction involved, please describe that situation?

10 A We were doing a transaction and the client was making a  
11 loan to a company that was in the auto lease business. The  
12 information coming to us didn't seem to be accurate, based on  
13 due diligence, and we recommended to the client not to go  
14 forward with the transaction.

15 MR. BRODSKY: Your Honor, no further questions.

16 MS. SMITH: If we're recalling the witness I'll wait  
17 for that to happen.

18 THE COURT: They are going to wait on their cross  
19 until the witness is recalled.

20 We can excuse Mr. Jacobs now.

21 Sir, you may be recalled.

22 THE WITNESS: I'm going out of town.

23 MR. BRODSKY: Your Honor, given that situation, I  
24 think Mr. Jacobs and his schedule and his time, we'll move  
25 forward. If we're in this situation, we'll move forward. We

JACOBS - DIRECT BRODSKY

1 don't want to breakup our witnesses. We'll move forward with  
2 the cross-examination.

3 MS. SMITH: Can we have a brief sidebar?

4 (Continued on the next page.)

5 (Sidebar conference.)  
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## SIDEBAR CONFERENCE.

1 MS. SMITH: I want to the record to the clear that  
2 we're more than happy to wait and have Mr. Brodsky litigate  
3 these issues and then have Mr. Jacobs testify.

4 MR. BRODSKY: Your Honor, I think --

5 MS. SMITH: Just I don't want any argument that they  
6 were prejudiced by the fact that this issue came up and there  
7 wasn't sufficient time during the examination to fully -- you  
8 know, Mr. Brodsky seems to want to make additional arguments  
9 in connection with your Honor's rulings. That's fine with us.  
10 But if we move forward, then those arguments are waived with  
11 respect to this testimony; otherwise, we cannot forward.

12 MR. BRODSKY: The Government is trying to induce us  
13 to waive any rights we have. They don't have the right to do  
14 that. We have the right to present the evidence as we wish.  
15 We want the witness to go forward. The witness is an elderly  
16 man, he should go forward with the cross-examination. The  
17 orderly presentation of our evidence would be severely  
18 interrupted if the cross does not begin today and now.

19 Second, your Honor, if there is a situation where  
20 your Honor permits additional examination. Your Honor has  
21 already said we could recall Mr. Jacobs. So we understand  
22 that. We understand we could recall Mr. Jacobs, if your Honor  
23 makes certain rulings. And your Honor would allow us to have,  
24 you know, whatever small number of questions and cross on  
25 that.



## SIDEBAR CONFERENCE.

1 THE COURT: Well, the problem I'm having also, is I  
2 don't know what you are avoiding asking based on what you  
3 anticipate to be my rulings.

4 MR. BRODSKY: Understood.

5 THE COURT: We talked about if you could narrowly  
6 frame and tie the advice and the events at issue in this case  
7 together.

8 MR. BRODSKY: Yes, your Honor.

9 THE COURT: Then we shouldn't have a problem. And  
10 all likelihood if there is an objection, I'll overrule it.  
11 But if it's going to be general type of question that's  
12 untethered to time, a three-year period, and not necessarily  
13 in relation to an event in this case, then it makes it very  
14 difficult to admit that kind of testimony. So I don't know.

15 MR. BRODSKY: I will tell you, I will proffer to  
16 your Honor what it is now. Specificity is, with respect to  
17 the conversations about the settlement agreements and the  
18 release, which already has come out. Mr. Jacobs, I  
19 anticipate -- again, this is what I anticipate he would say.  
20 He said, in sum and substance, that he taught him it's always  
21 better to settle than to fight the cost of litigation and  
22 potential litigation, hiring litigators, going through that  
23 process far outweighs the benefits from settling the matter.  
24 And he also taught him that it was better to do the settlement  
25 yourself, than give it to litigators who would charge a lot of

## SIDEBAR CONFERENCE.

1 money. And he had developed settlement agreements that were  
2 satisfactory, and overtime, and he thought were very strong.  
3 And therefore, he said that would save a lot of time and  
4 expense. That's one.

5 THE COURT: To give it to litigators within the  
6 firm?

7 MR. BRODSKY: Yes, to litigators within the firm.

8 The second, your Honor, piece would be with respect  
9 to, already his testimony about consulting agreements that  
10 he's already testified about. He would testify, I believe he  
11 testified already about them, about his conversation with  
12 Mr. Greebel. I believe he would add to that that if I asked  
13 him -- let me get the specificity your Honor. He had  
14 testified on page 8270, line seven to 12, that Mr. Greebel had  
15 asked him whether or not he had a form of a consulting  
16 agreements which he could use. In response --

17 MS. SMITH: Are there notes of his response?

18 MR. BRODSKY: I do not have notes of his response.  
19 Thank you, Ms. Smith. I know you're looking at my  
20 attorney-client documents.

21 MS. SMITH: I am not.

22 MR. BRODSKY: In response, I believe I expect him to  
23 say that -- further I asked him on page 8270, lines eight to  
24 nine, we discussed generally what is included in a consulting  
25 agreements. I would ask him, what did you tell Mr. Greebel

SIDEBAR CONFERENCE.

1 about what is included in a consulting agreements. I  
2 anticipate that he would testify: Don't be specific, be as  
3 general as possible, the more specific you are it means you  
4 have to go back and amend the consulting agreements.

5 That is very specific advice that he gave him that  
6 informs and had an effect on Mr. Greebel in drafting  
7 consulting agreements. And so those are two specific pieces.

8 I would also, your Honor, proffer to your Honor that  
9 we would go back to the Board conversation and in connection  
10 with his work on Boards. I would ask him that -- let me try  
11 to find it, your Honor. I would ask him whether or not he  
12 discussed with Mr. Greebel who signed the Board minutes. And  
13 approximately when did the conversation occur. Sitting here  
14 right now, I don't remember what his answer would be as to  
15 when, but he had told me that the Acting Secretary signs them  
16 and puts them in the minute book. That may be, it's in the  
17 record that he sent them either to the Chairman, the CEO or  
18 the CFO. Then he said either the CEO or CFO if there is no  
19 Chairman, it's in the record. If you get comments, make the  
20 changes and put them in the minute book.

21 THE COURT: He's saying the Acting Secretary putting  
22 them in the minute book or the CFO or CEO?

23 MR. BRODSKY: I thought his testimony to date was  
24 that the Acting Secretary, the one who did the draft minutes  
25 would put them in the minute book. That's how I --

## SIDEBAR CONFERENCE.

1 MS. SMITH: That was his testimony.

2 MR. BRODSKY: -- understood his testimony. I would  
3 follow that up with a specific question, did you discuss who  
4 signs them.

5 I proffer to the Court, I anticipate he would say  
6 the Acting Secretary. Whoever took the notes, whoever  
7 prepared them signs it, that's the Acting Secretary. The  
8 Acting Secretary is who would keep the notebook.

9 MS. SMITH: We're obviously going to object to all  
10 of that. I do think it needs to be briefed. I can do the  
11 cross. He can do the redirect. If they want to recall him,  
12 potentially, if your Honor rules it doesn't come in then he  
13 doesn't have to come back. I do want to move it along. My  
14 cross is very short.

15 It's not right. We should just recall him on  
16 direct. We had to do that when timing didn't work out. I  
17 think all of this should be excluded. And so we do need to  
18 brief it. It's significant. And it's being offered for the  
19 truth, from our perspective.

20 I will do my cross. He can do whatever redirect he  
21 wants. We can brief this. And if we need Mr. Jacobs to come  
22 back, we will.

23 THE COURT: Give me a minute. You object to all of  
24 this.

25 MS. SMITH: All of it. We need to brief it. Again,

## SIDEBAR CONFERENCE.

1 it's not being offered for the truth, these are frankly  
2 Mr. Greebel's arguments that I heard throughout the trial now  
3 embodied in Mr. Jacobs' testimony. The time period, again, is  
4 very fluid. So I just think I would feel more comfortable,  
5 especially I have not seen the cases specifically that  
6 Mr. Brodsky cited. But I think that they cover much different  
7 sets of circumstances than we're talking about here. Frankly,  
8 different than some of the specific instances you let in.

9 THE COURT: Just so I understand what we're doing  
10 here. These proffered Q&As are going to be held in abeyance.  
11 You will do your cross. You will then brief whether this or  
12 other witnesses' similar Q&As would be acceptable. Then if I  
13 rule in favor of the defense, Mr. Jacobs will come back.

14 MS. SMITH: I suppose we could do the redirect too,  
15 get it done. If he's waiting on the redirect, then we're  
16 waiting on the cross. The cross should be on the full  
17 examination. If we finish the examination direct, cross,  
18 redirect, done. Then you can't go back into anything that is  
19 discussed already, that's fine. If Mr. Brodsky tries to  
20 rehash when this person comes back other issues or not do his  
21 redirect now, then we need to hold the direct. That's just  
22 the way it works.

23 MR. BRODSKY: Your Honor, with respect to the  
24 Government, I don't believe they get to determine how we put  
25 in our case. I believe your Honor is correct, that, one, they

## SIDEBAR CONFERENCE.

1 should proceed with the cross. Two, we should do our  
2 redirect.

3 THE COURT: I didn't make a ruling yet. I was just  
4 asking.

5 MR. BRODSKY: We would like to proceed with the  
6 cross. We would like to do the redirect. I don't know  
7 whether or not a 70-year-plus old man, we're recalling him.  
8 We didn't make that judgment, your Honor. I believe the  
9 Government doesn't have a fair argument as to why they can  
10 move to preclude these specific statements. We should proceed  
11 with the cross. We should do the redirect. Then we can argue  
12 after that, depending on your Honor's rulings on these  
13 specific cases, whether or not, if your Honor overrules the  
14 Government's objection, we'll make a decision as to whether or  
15 not to recall Mr. Jacobs and the implications of recalling  
16 him. And try to balance the benefit of having them listen to  
17 this additional proffered testimony with respect to our case.

18 THE COURT: Okay. I think he indicated he's going  
19 out of town. When I said he may have to come back, he said,  
20 I'm going out of town.

21 MR. BRODSKY: He has his own schedule. I knew he  
22 was going out of town. I knew he had to be on this week; he  
23 was insistent on it. Having him come back, I told him, I'm a  
24 very bad predictor of timing. I thought he would be done  
25 yesterday. I think he's not, it's not well taken with him

## SIDEBAR CONFERENCE.

1 that he's back today. I think he's fine. But I know he's  
2 insistent that he had to be done today with respect to us.

3 THE COURT: Do you know when he's leaving?

4 MR. BRODSKY: We didn't serve him with a trial  
5 subpoena. I don't know.

6 MS. SMITH: We had this with multiple witness. We  
7 had a witness who had to fly to Europe and come back.

8 MR. BRODSKY: We would like to proceed, your Honor.  
9 Given scheduling issues if your Honor has rulings on these  
10 now, fantastic, we would love it.

11 THE COURT: It would be cunning the Government's  
12 opportunity to respond. I think they asked multiple times for  
13 the opportunity to look at the cases and to respond, and  
14 frankly, I haven't had time given the 10:20 a.m. submission  
15 today to really look at the case. My clerk has gotten a  
16 preliminary look, but I would feel more comfortable having  
17 full opportunities for both sides. So why don't we hold these  
18 in abeyance. And then you'll proceed with your cross.

19 MS. SMITH: Sure.

20 THE COURT: We'll see what happens.

21 (End of sidebar conference.)

22 (Continued on the next page.)  
23  
24  
25

JACOBS - CROSS - MS. SMITH

1 (In open court.)

2 MS. SMITH: May I proceed?

3 THE COURT: Yes.

4 CROSS-EXAMINATION

5 BY MS. SMITH::

6 Q Good afternoon, Mr. Jacobs.

7 A Good afternoon.

8 Q Yesterday you gave us a little bit about your background.

9 You said you were at Katten Muchin until April 2015; is that  
10 right?

11 A That's correct.

12 Q You said after --

13 A Yes, that's correct.

14 Q Is that right?

15 A Yes.

16 Q You said after you left Katten Muchin in April 2015 you  
17 continued to stay in contact with Mr. Greebel; is that right?

18 A I did, yes.

19 Q And in the years prior to 2015, 2012, 2013, 2014, you  
20 were transitioning into retirement; is that right?

21 A Correct.

22 Q You said that during that time period that you sometimes  
23 spoke to Mr. Greebel for five- to ten-minute conversations and  
24 sometimes you billed for those conversations and sometimes you  
25 didn't, right?



JACOBS - CROSS - MS. SMITH

1 MR. BRODSKY: Objection. Compound, your Honor.

2 THE COURT: Try to break it down please.

3 BY MS. SMITH::

4 Q Yesterday you testified that in that time period, 2012 to  
5 2015, when you were transitioning into retirement you  
6 sometimes spoke to Mr. Greebel for short conversations,  
7 correct?

8 A Yes.

9 Q Five to ten minute conversations?

10 A No.

11 Q There were a series of short conversations that you  
12 testified to yesterday, do you remember that?

13 A I remember that.

14 Q So for those short conversations you said that sometimes  
15 you billed the conversations and sometimes you didn't; is that  
16 right?

17 A That's correct.

18 Q And you said that you didn't bill those conversations,  
19 the short ones, sometimes, because you were going to be  
20 retired and it wasn't as important for you to bill; is that  
21 right?

22 A That's correct.

23 Q But you would agree with me, to the extent you did  
24 substantive work for a client you billed that work, didn't  
25 you?

JACOBS - CROSS - MS. SMITH

1 A If I did substantive work I can bill it, yes.

2 THE COURT: Not whether you could, did you.

3 THE WITNESS: I guess I did, I did.

4 Q You were asked questions about some of the billing that  
5 you did for the MSMB entities and Retrophin in your last few  
6 years at Katten, right?

7 A Yes.

8 Q And for the MSMB entities, which entities were those?

9 A I don't remember.

10 Q You were not the principal attorney or the responsible  
11 attorney for those entities, were you?

12 A That's correct.

13 Q You were not the principal attorney or the responsible  
14 attorney for Retrophin, right?

15 A That's correct.

16 Q You didn't get any origination credit for the MSMB  
17 entities, correct?

18 A That's correct.

19 Q You didn't get any origination credit for Retrophin,  
20 right?

21 A Correct.

22 Q You didn't get any share credit for the MSMB entities,  
23 right?

24 A Yes.

25 Q You didn't get any share credit for Retrophin either, did

JACOBS - CROSS - MS. SMITH

1 you?

2 A That's correct.

3 Q You didn't sign the engagement letter for any MSMB  
4 entity, right?

5 A That's correct.

6 Q You didn't sign the engagement letter for Retrophin,  
7 right?

8 A That's correct.

9 Q You didn't see the engagement letters for any of those  
10 entities while you were at Katten, correct?

11 A I'm not sure if I saw them.

12 Q Do you remember seeing them?

13 A I don't recollect, but I might have.

14 Q Mr. Brodsky asked you a few questions on cross -- on  
15 direct, about the role of Acting Secretary at a Board meeting,  
16 right?

17 A Yes, he did.

18 Q At one point you said that the Acting Secretary is a  
19 scrivener, correct?

20 A That's correct.

21 Q You would agree with me, when you said the Acting  
22 Secretary is a scrivener, you were describing the very  
23 specific role of Acting Secretary, correct?

24 A Can you repeat that question?

25 Q When you said the Acting Secretary is a scrivener, the

JACOBS - CROSS - MS. SMITH

1 scrivener piece of the Acting Secretary, that's the role of  
2 the Acting Secretary, right?

3 MR. BRODSKY: Objection.

4 THE COURT: Overruled.

5 A That's correct.

6 Q That doesn't apply to when you're also serving as outside  
7 counsel for the company, correct?

8 A No.

9 Q Because when you're outside counsel for a company you're  
10 far more than a scrivener, right?

11 A You asked me about being an Acting Secretary, different  
12 than being outside counsel.

13 Q If you are serving as Acting Secretary while you are also  
14 outside counsel you wear both hats, right?

15 A Technically, yes.

16 Q So the hat in which you are just the scrivener and just  
17 taking notes is the Acting Secretary hat, correct?

18 A Correct.

19 Q And the outside counsel hat, if you're playing that role,  
20 you have far more responsibilities than just being a  
21 scrivener, correct?

22 A No.

23 Q You have no more responsibility as an outside counsel to  
24 a company than taking notes on what the company says?

25 A You asked me whether or not Acting Secretary and as legal

JACOBS - CROSS - MS. SMITH

1 counsel, whether they are the same.

2 Q That wasn't my question, sir.

3 A Then I'm sorry, please restate.

4 Q I will restate.

5 My question is with respect to Acting Secretary  
6 being a scrivener. When you served as outside counsel for a  
7 Board, have you also served as Acting Secretary?

8 A Yes.

9 Q So when you're serving as outside counsel to a Board or  
10 company, your responsibilities are broader than an Acting  
11 Secretary's, correct?

12 A Not necessarily.

13 Q So you're saying that when you serve as outside counsel  
14 to a company, you don't provide advice to the company?

15 A I provide, yes, as outside counsel you would provide  
16 advice if you were asked something.

17 Q And as outside counsel, you owe your client a duty of  
18 loyalty, right?

19 A Excuse me?

20 Q You owe --

21 MR. BRODSKY: Your Honor, objection. Beyond the  
22 scope of the direct.

23 THE COURT: I'll sustain that objection.

24 Q As outside counsel do you have any responsibilities to  
25 your client?

JACOBS - CROSS - MS. SMITH

1 A You have responsibilities.

2 Q Are those responsibilities important?

3 A Yes.

4 Q Do those responsibilities include things other than  
5 taking notes at a Board meeting?

6 A Yes.

7 Q You said you've been a corporate attorney since about  
8 1970; is that right?

9 A 1967.

10 Q Between 1967 and 1970 you worked for the SEC; is that  
11 right?

12 A Yes.

13 Q In that time period, since 1967, you've worked with lots  
14 of corporate clients, correct?

15 A That's correct.

16 Q Those clients included hedge funds, right?

17 A Yes.

18 Q And private companies?

19 A Yes.

20 Q And public companies?

21 A Yes.

22 Q And you know that as outside counsel to those sorts of  
23 clients, it's important to have an understanding of the key  
24 documents to those clients, correct?

25 MR. BRODSKY: Objection to form. Outside the scope.

JACOBS - CROSS - MS. SMITH

1 THE COURT: Overruled.

2 A You probably know most of the documents, yes.

3 Q For example, like the partnership agreement?

4 A I'm sorry?

5 Q Like the partnership agreement, is that an important  
6 document to a company?

7 A For a partnership, yes.

8 Q For a hedge fund an important document is a private  
9 placement memorandum, correct?

10 MR. BRODSKY: Your Honor, this is beyond the scope  
11 with respect to a hedge fund.

12 THE COURT: Well, he said he did represent hedge  
13 funds.

14 MR. BRODSKY: I understand, but, my objection is the  
15 role.

16 MS. SMITH: If we're speaking, we'll do sidebar.

17 THE COURT: I think that there was elicited from  
18 this witness a long history of his distinguished career as a  
19 lawyer and his broad experience. I'm going to allow the  
20 question.

21 BY MS. SMITH::

22 Q I said for a hedge fund, as outside counsel it's  
23 important to understand a document like a private placement  
24 memorandum, correct?

25 A I don't know if it's important. You might want to do it,

JACOBS - CROSS - MS. SMITH

1 depends if you had handle the offering, if you drafted the  
2 offering memorandum, depends when it was done, it may or may  
3 not be something that you look at.

4 Q You were asked questions about the compensation memos for  
5 Mr. Greebel?

6 A Yes.

7 Q You didn't sit on the committee that determined his  
8 compensation between 2011 and 2015, did you?

9 A No, I did not.

10 Q In preparation for your testimony today you met with  
11 attorneys for the defendant, right?

12 A I met with Mr. Brodsky.

13 Q You said that you met with Mr. Brodsky four times to  
14 prepare for your testimony; is that right?

15 A I said two times, I met with him. Then, yes, I guess a  
16 total of four times.

17 Q In addition to the four times you also testified today  
18 about a fifth meeting that you had last night; is that right?

19 A I said this morning.

20 Q This morning. And during that meeting you discussed your  
21 testimony from yesterday; is that right?

22 A Yes.

23 Q You discussed your testimony for today; is that right?

24 A Yes.

25 Q During that meeting were you shown any documents to



JACOBS - CROSS - MS. SMITH

1 refresh your recollection?

2 A No.

3 Q Mr. Brodsky asked you some questions on direct about your  
4 role on the billing committee and your interactions with  
5 Mr. Greebel in that context. He specifically asked you what  
6 the consequences were to the law firm of Katten Muchin if  
7 there is a failure to collect bills, that's at transcript page  
8 8185?

9 A Is that in here?

10 Q Are there consequences to a -- excuse me.

11 There are consequences to a non-equity partner if  
12 there is a failure to collect bills for his or her clients, it  
13 that correct?

14 A What do you mean by consequence?

15 Q Realization rate is an important factor to the salary of  
16 a non-equity partner?

17 A It is one of the criteria, yes.

18 Q You weren't personally involved in collection of payments  
19 for MSMB Capital, MSMB Healthcare or Retrophin, correct?

20 A Not personally, no.

21 Q You have no idea where the money to pay Katten Muchin's  
22 invoices for Retrophin came from, correct?

23 A No.

24 Q You testified on direct you never met Mr. Martin Shkreli,  
25 correct?

JACOBS - CROSS - MS. SMITH

1 A That's correct.

2 Q You never spoke to him on the telephone, correct?

3 A That's correct.

4 Q You never had any kind of conversation with him?

5 A Not to my recollection.

6 Q In fact, you didn't have any contact with any employees  
7 for Retrophin, did you?

8 A No.

9 Q Or any officers of Retrophin?

10 A No.

11 Q Or any management of Retrophin?

12 A No.

13 Q Or any Board members for Retrophin?

14 A No.

15 Q You never spoke to them by phone, correct?

16 A I never spoke to them by phone.

17 Q Never met them in person?

18 A That's correct.

19 Q You also never had any contacts with any employees of  
20 MSMB Capital, right?

21 A That's correct.

22 Q Never had any contact with the management of MSMB  
23 Capital?

24 A That's correct.

25 Q And you never had any contact with anyone at MSMB

JACOBS - CROSS - MS. SMITH

1 Healthcare, right?

2 A That's correct.

3 Q You weren't present for any interactions between anyone  
4 at MSMB Capital and Mr. Greebel, right?

5 A That's correct.

6 Q You weren't present for any interactions between  
7 Mr. Greebel and anyone at MSMB Healthcare, correct?

8 A That's correct.

9 Q You weren't present for any interactions between  
10 Mr. Greebel or anyone at Retrophin, correct?

11 A That's correct.

12 Q You also weren't present for any conversations between  
13 Mr. Shkreli and Mr. Greebel, correct?

14 A Correct.

15 Q So you didn't personally observe any interaction between  
16 Mr. Shkreli and Mr. Greebel?

17 A I did not.

18 Q You don't know how frequently they spoke on the phone?

19 A No, other than the time sheets, I wouldn't know.

20 Q I don't have any personal knowledge of what Mr. Greebel  
21 and Mr. Shkreli discussed during any interactions, correct?

22 A That's correct.

23 Q You don't have any personal information about what  
24 information was provided to Mr. Greebel by Mr. Shkreli during  
25 those interactions?

JACOBS - REDIRECT - MR. BRODSKY

1 A That's correct.

2 MS. SMITH: One minute, your Honor.

3 No further questions.

4 MR. BRODSKY: A little redirect, your Honor, on  
5 those very topics?

6 REDIRECT EXAMINATION

7 MR. BRODSKY:

8 Q You were asked on cross-examination, when an outside  
9 counsel is serving as both outside counsel to a public company  
10 and Acting Secretary, do you remember those questions on  
11 cross-examination by Ms. Smith?

12 A I do.

13 Q In those situations, had you been outside counsel and  
14 Acting Secretary at the same time?

15 A Yes.

16 Q When you were outside counsel to a public company and  
17 Acting Secretary at a Board meeting, what role were you  
18 playing when you were Acting Secretary at that Board meeting?

19 A When I was a Acting Secretary, I was taking notes of the  
20 minutes, for the minutes. When I was counsel I would sit in  
21 there and answer questions as counsel if anyone asked me a  
22 question.

23 Q If no one asked you any questions?

24 A Didn't say anything.

25 Q You were asked questions about being outside counsel to a

JACOBS - REDIRECT - MR. BRODSKY

1 hedge fund and whether you needed to understand or not  
2 understand a PPM, do you remember those questions by  
3 Ms. Smith?

4 A Yes.

5 Q Now, when you were outside counsel to a hedge fund, did  
6 you rely on the representations of management at the hedge  
7 fund or not rely on the representations of management at the  
8 hedge fund?

9 A I relied on the representations of management.

10 Q And you were asked questions about whether or not you had  
11 an idea of where the fees paid for MSMB bills were coming  
12 from, do you remember Ms. Smith's questions about that?

13 A Yes.

14 Q Now, when you were at Katten and a client wired money to  
15 Katten, did you know where the money was coming from?

16 A I would manage from the person who wired it.

17 Q And did you see any documentation as to where the wire  
18 was coming from?

19 A No.

20 Q Have you had situations, yes or no, whether or not --

21 MS. SMITH: Objection to leading, your Honor.

22 MR. BRODSKY: I'll withdraw that.

23 BY MR. BRODSKY::

24 Q Do you know one way or the other, whether or not you've  
25 represented clients at Katten and bills were being paid by the

JACOBS - REDIRECT - MR. BRODSKY

1 client or an affiliate of the client?

2 A No.

3 Q And have you had situations had Katten, yes or no, where  
4 a client of yours their bills were being paid by an  
5 affiliation?

6 MS. SMITH: Objection. Asked and answered.

7 THE COURT: I think not. I'll overrule that  
8 objection.

9 A No.

10 Q Did you know one way or the other whether an affiliate  
11 paid the bill or didn't pay the bill?

12 THE COURT: That has been asked and answered.

13 Q Where did the wire, when a wire when you were at Katten  
14 and a wire was paid, what notification do you get, did you get  
15 as a partner?

16 A You would just be told that the money came in.

17 Q And who receives the wire payment?

18 A The firm.

19 Q Had you been in situations where a company paid for an  
20 outstanding bill owed by a subsidiary or an affiliate or  
21 related party?

22 MS. SMITH: Objection to, asked and answered.

23 THE COURT: Sustained.

24 Q Had you been in situations where a company's bill was  
25 being paid for by some other party?

JACOBS - REDIRECT - MR. BRODSKY

1 A Yes.

2 Q And did you, when some other party paid for the bill, did  
3 you object?

4 A No.

5 Q Did anybody at the firm object?

6 MS. SMITH: Objection to leading.

7 A Not to my knowledge.

8 THE COURT: Just let's not lead the witness. All  
9 right.

10 MR. BRODSKY: Yes, your Honor.

11 Q You were asked about whether or not you were present for  
12 any communications between Mr. Shkreli and Mr. Greebel, do you  
13 remember the questions Ms. Smith asked you and your answers?

14 A Yes.

15 Q Now in 2013, did you go to work every day?

16 A Yes.

17 Q In 2012 did you go to work every day?

18 MS. SMITH: Objection, your Honor. Beyond the  
19 scope.

20 MR. BRODSKY: I'm laying the foundation for my  
21 question, your Honor, with respect to interactions.

22 THE COURT: All right. I'll give you some latitude.

23 MR. BRODSKY: Thank you, your Honor.

24 Q Your office in 2012, was it, I believe you testified it  
25 was next to Mr. Greebel's office?

JACOBS - REDIRECT - MR. BRODSKY

1 A Yes, it was.

2 Q And in 2013 your office was next to Mr. Greebel's office?

3 A Yes, it was.

4 Q In 2014 did you go to work every day?

5 A Yes.

6 Q And was your office next to Mr. Greebel's?

7 A Yes.

8 Q In 2012, did you ever observe Mr. Shkreli coming to visit  
9 Mr. Greebel at his office?

10 A No.

11 Q Not one occasion?

12 MS. SMITH: Objection to leading.

13 THE COURT: You're going to have to refrain the  
14 questions, we've had a lot of objections about leading.

15 MR. BRODSKY: Understood.

16 Q In 2013 during any time of that year did you observe or  
17 not observe Mr. Shkreli ever come to the office of  
18 Mr. Greebel?

19 A I don't recall observing him.

20 Q And in 2014 did you ever observe or not observe  
21 Mr. Shkreli coming to the office of Mr. Greebel?

22 A We didn't usually meet people in our office, we met them  
23 at a conference center. I did not observe anyone coming to  
24 his office.

25 Q In 2012 did you ever observe Mr. Greebel meeting with



JACOBS - REDIRECT - MR. BRODSKY

1 Mr. Shkreli in a conference room?

2 A Not to my recollection.

3 Q And in 2013 did you ever observe Mr. Shkreli meeting with  
4 Mr. Greebel?

5 A Not to my recollection.

6 Q And in 2014?

7 A Not to my recollection.

8 Q Now do you know one way or the other whether on occasion  
9 a Board meeting was held at Katten Muchin, physically, in  
10 2014?

11 MS. SMITH: Objection to what Board meeting.

12 MR. BRODSKY: Board meeting -- of Retrophin. I'll  
13 withdraw.

14 Q Do you know whether or not in 2014 a Board meeting of  
15 Retrophin was held at the offices of Katten Muchin?

16 MS. SMITH: Objection. Beyond the scope.

17 THE COURT: I'm just trying to think whether I could  
18 find a way or what your argument would be within the scope of  
19 your --

20 MR. BRODSKY: Interactions between Mr. Shkreli and  
21 Mr. Greebel.

22 THE COURT: This is about a Board meeting. I'll  
23 sustain the objection.

24 BY MR. BRODSKY::

25 Q During the time you spent with Mr. Greebel between 2012

JACOBS - REDIRECT - MR. BRODSKY

1 and 2014, did you meet any of Mr. Greebel's clients?

2 A I don't think so.

3 MR. BRODSKY: No further questions, your Honor.

4 MS. SMITH: No redirect, your Honor.

5 THE COURT: All right. Sir, you're excused.

6 THE WITNESS: Thank you.

7 MR. BRODSKY: I have a request that I think -- I can  
8 do it outside of the presence of the jury. This might be a  
9 good time, your Honor -- I just have a -- I'm sorry, I can't  
10 articulate it, it involves Mr. Jacobs. It's a suggestion.

11 THE COURT: May I excuse him for the day or?

12 MR. BRODSKY: I have a suggested approach with  
13 regard to the sidebar issue.

14 THE COURT: So sir, if you'd like have a seat and  
15 well have a brief sidebar.

16 MR. BRODSKY: I don't know if this is a good time,  
17 your Honor, I don't know when you were planning on taking --

18 THE COURT: If this is a brief sidebar, if it is  
19 something we can resolve and we can give Mr. Jacobs an answer  
20 and the jury can hear testimony or take lunch, we'll decide at  
21 sidebar.

22 (Continued on the next page.)

23 (Sidebar conference.)

24

25

SIDEBAR

1 MR. BRODSKY: Mr. Mastro's suggestion was we excuse  
2 the jury, and while Mr. Jacobs is here, outside the presence  
3 of the jury, I ask these questions and elicit the testimony.  
4 Then if your Honor decides, based on the question and the  
5 answer, is admissible or not admissible, then that could be  
6 read to the jury at a subsequent, whatever portion, could be  
7 read to the jury. This way we don't have to recall Mr. Jacobs  
8 for three questions.

9 THE COURT: Then they don't get the cross.

10 MR. BRODSKY: They would cross here.

11 MS. SMITH: Absolutely not, your Honor.

12 MR. MASTRO: Simply to preserve the testimony, your  
13 Honor. It's only a five-minute examination.

14 MS. SMITH: It's a jury trial. They need to observe  
15 the testimony.

16 MR. MASTRO: We have depositions when a witness is  
17 absent.

18 MS. SMITH: Video deposition.

19 MR. MASTRO: Not always video depositions. When you  
20 have to preserve a witness's testimony. And your Honor, I  
21 think this is really for three questions. We may never be  
22 able to call him back. Whatever your Honor rules, your Honor  
23 rules. This is three questions and three answers. They can  
24 cross. Five minutes. Preserve it. And then it could be read  
25 later. If you ruled in our favor, if you ruled against us

SIDEBAR

1 then it doesn't comes in.

2 MR. BRODSKY: When you consider that Mr. Shkreli's  
3 trial, for example, it often happens where the Government  
4 wants to put into evidence, a defendant's statements, there is  
5 not a videotape. They often put in the statements, as they  
6 did during Mr. Shkreli's trial, the jury doesn't get to  
7 observe the statements being made. Here they observed  
8 Mr. Jacobs.

9 THE COURT: Refresh me, what happened in the  
10 Mr. Shkreli trial?

11 MS. SMITH: We put in statements of Mr. Shkreli's  
12 SEC deposition. It's the defendant.

13 MR. MASTRO: I'm not doing it for the purpose of  
14 saying there was anything wrong with putting in the  
15 statements. I'm offering as an example in a criminal it's not  
16 always the case when statements are in evidence of somebody,  
17 whether a defendant or somebody else, there is actual  
18 videotape or actual observation of the statement being made.  
19 So given that they have seen Mr. Jacobs, we just thought this  
20 was an eloquent solution to this difficult situation with  
21 Mr. Jacobs. It's a suggestion, your Honor. We can excuse the  
22 jury because, whatever your decision is for lunch, if your  
23 Honor, whatever your decision is it doesn't involve the jury.

24 MS. SMITH: Your Honor, this is unavailable witness.  
25 I've never, even with that, this is a criminal federal trial.

SIDEBAR

1 If you have a witness testify, they testify. You don't take a  
2 deposition. The very few circumstances where you have a  
3 witness's testimony that they are not live in front of the  
4 jury, it is a videotaped deposition where both sides have a  
5 chance to ask questions on cross and the jury can observe the  
6 witness. This is simply just not done. I don't even have any  
7 kind of authority at my fingerprints because it's so  
8 outrageous; otherwise we would all do this and read things  
9 into the record. But you can decide it later.

10 THE COURT: The credibility determinations of the  
11 jury are very critical here. I think that it would be not be  
12 appropriate in these circumstances. In the Shkreli trial, if  
13 you're referring to SEC testimony, it's apples and oranges, in  
14 my view.

15 I think that we've sort of set out a game plan for  
16 dealing with this problem, which I think, frankly, as I've  
17 said, could have been front-loaded from the trial and it  
18 wasn't. So whatever the fall out is from the decision to  
19 bring this up when it was brought up is not. I think that the  
20 parties are --

21 MR. BRODSKY: It might be, since it's almost one, it  
22 depends whatever your Honor wants to do.

23 THE COURT: I'll ask the jury.

24 (End of sidebar conference.)

25 (Continued on the next page.)

PROCEEDINGS

1 (In open court.)

2 THE COURT: Does anyone have any objection to  
3 excusing Mr. Jacobs?

4 MR. BRODSKY: No.

5 THE COURT: Sir, you can step down. You're excused  
6 for now. We'll be in touch. Thank you.

7 THE WITNESS: Thank you.

8 (Whereupon, the witness was excused.)

9 THE COURT: Would the jurors like to have lunch now  
10 or would you prefer to go to the next witness?

11 THE JURY: (Collectively) Lunch.

12 THE COURT: Lunch. All right.

13 (Jury exits the courtroom.)

14 THE COURT: Have a seat. Unless there is something  
15 that we need to deal with right now, I'm going to go up and  
16 work on charges for an hour. I'd like to try to post them  
17 ideally today or tomorrow morning. We will try to do the  
18 charging conference on Friday afternoon as we discussed.

19 I understand that there is a hard stop time on  
20 Friday, given that we're on standard time again.

21 THE DEFENDANT: 4:45.

22 THE COURT: Can we get a time that the Government  
23 will respond to the letter?

24 MS. SMITH: 6:30.

25 THE COURT: I'll give you to 6:30.

PROCEEDINGS

1 MS. SMITH: The only thing is, I want to look at the  
2 transcript what Mr. Brodsky proffered what the witness will  
3 say. We can do it when the transcript comes in.

4 THE COURT: Thank you.

5 (Lunch recess.)  
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PROCEEDINGS

1 (Open court; no jury present.)

2 THE COURT: Have a seat. Are we ready to bring the  
3 jury back?

4 MR. PITLUCK: Yes.

5 MS. DENERSTEIN: Your Honor, do you want us to put  
6 the witness in the witness stand?

7 THE COURT: Sure.

8 MS. DENERSTEIN: Okay.

9 THE COURT: Do you want to see if the jurors are  
10 back?

11 THE LAW CLERK: Sure.

12 (Short pause.)

13 THE COURT: I think we had one missing juror, but  
14 hopefully, she's back.

15 (WHEREUPON, at 2:08 p.m., the jury re-entered the  
16 courtroom.)

17 THE COURT: All jurors are present. Please have a  
18 seat. And the defense may call its next witness.

19 MS. DENERSTEIN: Your Honor, the defense calls  
20 Professor Craig Lewis.

21 (Witness takes the witness stand.)

22 CRAIG LEWIS, called as a witness, having been first duly  
23 sworn/affirmed, was examined and testified as follows:

24 THE COURTROOM DEPUTY: State and spell your full  
25 name.



LEWIS - DIRECT - MS. DENERSTEIN

1 THE WITNESS: My name is Craig Lewis, C-r-a-i-g,  
2 L-e-w-i-s.

3 THE COURT: Please proceed.

4 DIRECT EXAMINATION

5 BY MS. DENERSTEIN:

6 Q What is your educational background?

7 A I am an accounting undergrad from Ohio State University,  
8 and I have a masters of science, and a Ph.D. in finance from  
9 the University of Wisconsin at Madison.

10 Q And what years did you obtain those three degrees?

11 A My -- obtained my undergrad degree in 1978, my masters  
12 degree in 1984, and my Ph.D. in 1987.

13 Q Let's the talk about your career.

14 Where do you work?

15 A I work at Vanderbilt University.

16 Q And what where is Vanderbilt University located?

17 A It is in Nashville, Tennessee.

18 Q And where do you work at Vanderbilt University?

19 A The Owen Graduate School of management.

20 Q And is that a business school?

21 A Yes.

22 Q What do you do?

23 A I am a professor, and I teach courses in finance.

24 Q How long have you been a professor, Professor Lewis?

25 A Approximately 30 years.

LEWIS - DIRECT - MS. DENERSTEIN

1 Q What do you do as a professor of finance?

2 A I primarily teach classes in corporate finance, I also  
3 engage in academic research where I publish papers based on my  
4 research program.

5 Q Do you hold any particular chair as a professor of  
6 finance at Vanderbilt?

7 A Yes. I am the Madison S. Wigginton professor of finance.

8 Q And what is that?

9 A That is an honorary position that's awarded based on your  
10 academic accomplishments.

11 Q And how long have you held that position -- that chair?

12 A Approximately ten years.

13 Q Are you also a professor at Vanderbilt Law School?

14 A I have an honorary degree at the law school, but I do not  
15 teach law classes. I am not a lawyer.

16 Q What types of courses have you taught over the last 30  
17 years?

18 A So my current teaching load is I teach a course in  
19 company valuation, I teach another course in corporate  
20 financial policy, I have taught option pricing classes, an  
21 introductory option pricing class and an advanced derivative  
22 securities class. I have also taught Ph.D. classes in  
23 empirical methods.

24 Q Whom do you teach?

25 A I almost exclusively teach MBA and masters of science

LEWIS - DIRECT - MS. DENERSTEIN

1 students.

2 Q Have you won any awards for excellence in teaching?

3 A Yes. I have won a number of teaching awards over the  
4 years. I have been nominated as the outstanding teacher by  
5 both the MBA and our executive MBA classes. I've also  
6 received the Dean's award for teaching excellence.

7 Q What is the executive MBA class?

8 A It is a full-time MBA program where working professionals  
9 are able to obtain a degree while they maintain their current  
10 position.

11 Q Have you held any visiting professorships?

12 A Yes. Over the past 30 years I have had a number of  
13 visiting professorships. I have visited at Dartmouth College  
14 at the Amos Tuck School of Management, the Donau University in  
15 Austria, I have taught at Goethe University in Frankfurt  
16 Germany, and last summer I had a visiting professorship at  
17 Bacone University, which is in Milan, Italy.

18 Q And what do you do as a visiting professor?

19 A You teach classes and you assist in creating new research  
20 ideas. I worked on new research projects with the professors  
21 at these universities, as well as taught some courses.

22 Q In connection with your career in academia, have you  
23 conducted any research?

24 A Yes, I have.

25 Q What types of research have you conducted?

LEWIS - DIRECT - MS. DENERSTEIN

1 A My research broadly follows the courses that I teach. I  
2 conducted research in corporate finance in a number of  
3 different areas. I'm primarily an empirical corporate finance  
4 person. That means I study the issue decisions that companies  
5 make to issue certain types of securities, whether it is debt  
6 or equity. I have performed research in the area of equity  
7 research analysts, trying to understand whether some analysts  
8 are better analysts than others in how markets respond to the  
9 different types of research that equity analysts release. I  
10 have also -- more on the asset pricing of the derivative side,  
11 I've worked in areas of forecasting volatility and trying to  
12 understand how the markets come up with these estimates of  
13 volatility.

14 Q In connection with your academic research, have you won  
15 any awards for your scholarship?

16 A I have won a number of best paper awards in some of our  
17 leading academic journals. My work in equity analysts won a  
18 best paper award at journal -- one of the top three journals  
19 in the field called the Journal of Financial Economics. Last  
20 year I won a best paper award at Institutional Investor for a  
21 paper that I wrote on the credit default swap market. I have  
22 had a number of other editor recognitions for my work as well  
23 in other journals.

24 Q In connection with your scholarship, have you published  
25 in other journals than what you've just described?

LEWIS - DIRECT - MS. DENERSTEIN

1 A Yes. I published in a wide range of journals. Many of  
2 the leading finance journals that would include the Journal of  
3 Financial Economics, obviously, the Review of Financial  
4 Studies, Journal of Financial Quantitative Analysis, Journal  
5 of Corporate Finance, I've published in an economics journal,  
6 the Journal of Econometrics, some of my volatility work.

7 Q Do you serve on any editorial boards?

8 A I do. I am an associate editor on a number of journals.  
9 The Journal of Corporate Finance, I've been an associate  
10 editor of the Journal of Financial Research, Journal of  
11 Finance Banking.

12 Q What work, if any, have you done for private companies  
13 over the last 30 years?

14 A I've done -- I've had -- I've done a significant amount  
15 of consulting with private companies over the past 30 years.

16 Q What types of consulting, generally speaking?

17 A It has ranged from valuation exercises to simple advising  
18 on different types of decisions that firms would like to make.  
19 I have developed some option trading systems for an option  
20 trading firm in Chicago, for example.

21 Q Are you currently a consultant to a specific firm?

22 A Yes. I am a senior advisor at Potomac Global Advisors.

23 Q What do you do there?

24 A I primarily do regulatory consulting. I have written a  
25 number of white papers that are designed to inform policy

LEWIS - DIRECT - MS. DENERSTEIN

1 decisions.

2 Q In addition to being a professor and consulting with  
3 private companies, have you also served in government  
4 positions?

5 A Yes, I have. I was the -- I worked at the SEC over the  
6 period 20 -- US Securities and Exchange Commission, over the  
7 period 2011 to 2014, where I served as the director of the  
8 division of economic and risk analysis. I also had a joint  
9 title as a chief economist as well.

10 Q What does the SEC do?

11 A The SEC is a financial regulator that is primarily  
12 concerned with investor protection and the maintenance of  
13 efficient and orderly capital markets.

14 Q And what are capital markets generally?

15 A Capital markets represent the place where firms come to  
16 raise new money to take on projects and investors find places  
17 to buy and sell securities.

18 Q What does the division of economic and risk analysis do?

19 A We are the division -- we. The division of economic and  
20 risk analysis is the division that basically provides economic  
21 analysis to support rule making that the commission  
22 promulgates, and it also has a -- sort of a data analytic and  
23 risk assessment side that is largely designed to support  
24 enforcement matters.

25 Q What did you do as director?

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1 A I oversaw the administration of the commission on the  
2 policy side. I was probably -- I would say I was the chief  
3 architect of the economic analyses that were contained in SEC  
4 rule makings. And on the enforcement side, I oversaw a number  
5 of risk assessment initiatives, as well as we had a group  
6 within there called the office of litigation economics that  
7 was a group of economists that was designed to provide support  
8 for enforcement cases.

9 Q What did you do as chief economist?

10 A In the role of chief economist, that was the primarily  
11 the -- that -- in that role, that was where I was primarily  
12 performing in helping to decide how to write the economic  
13 analysis, that are analyses that are required to be in every  
14 SEC rule making.

15 Q Is the chief economist the highest position for an  
16 economist at the SEC?

17 A Yes.

18 Q And what is -- what was the difference between the  
19 position of director and chief economist?

20 A The chief economist, it primarily serves in the capacity  
21 of designing and helping to craft the economic analyses,  
22 whereas the director is a mainly -- is an administrative  
23 position that supervises the functioning of the division and  
24 its many different offices. If I can analogize a little bit,  
25 like being the dean of a business school, in the director

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1 position.

2 Q Are you familiar with the International Organization of  
3 Securities Commissioners?

4 A Yes, I am.

5 Q And what is that?

6 A IOSCO is a group of -- basically, it is a global  
7 organization that brings together security market regulators  
8 like the SEC to weigh in on a number of issues and how they  
9 affect global capital markets.

10 Q Did you hold a particular position with respect to that  
11 organization?

12 A Yes. I was -- I worked within a specific group within  
13 IOSCO, it was the committee on emerging risks, and that group  
14 was where the economists were effectively all located. It was  
15 primarily comprised of chief economists from around the world,  
16 from other security market regulators, and I was the  
17 vice-chairman of that particular group.

18 Q And how big was the division of economic and risk  
19 analysis?

20 A When I first became director in 2011, it was  
21 approximately 50 people. By the time I left to go back to  
22 Vanderbilt, it had grown to about 135 people.

23 Q And what was the reason for its growth?

24 A It was largely -- the growth was driven largely by a  
25 decision by the commission to put greater emphasis on the



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1 economic analysis that accompany every rule making.

2 Q Over the past 30 years, what experience do you have in  
3 analyzing markets and trading data?

4 A I would say that my career is based on the analysis of  
5 market data, you know, price and volume and return data,  
6 largely through my academic research, but, also, in my role as  
7 chief economist at the SEC, we frequently weighed in and  
8 evaluated market data in a number of different applications,  
9 whether it was designed to support rule making, specific rule  
10 making, or whether it was designed to help litigate  
11 enforcement cases, like insider trading cases.

12 Q Does any of your scholarship address markets and trading  
13 activity?

14 A Yes. I would say most of my scholarship addresses market  
15 and trading activities.

16 Q Could you provide the jury with a couple of examples?

17 A Typically, when you look at corporate financing  
18 decisions, you're interested in understanding how the market  
19 would respond to a particular decision. So if a firm was  
20 going to issue equity, or a debt issue, as a company, you  
21 would like to know how will your stock price be affected by  
22 the decision. So, typically, looking at stock price reactions  
23 to those types of announcements helps to inform how firms  
24 might think about which choices make the most sense. And when  
25 I have looked at equity research analysts, I am interested in

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1 does equity research actually have any type of an impact on  
2 stock prices. And so we looked at things like does equity  
3 research create trading volume, does equity research actually  
4 cause stock prices to change.

5 Q And by equity research, what do you mean?

6 A Typically, an equity analyst works for a large firm, and  
7 it supplies research reports that are designed to help  
8 investors make decisions that can be as simple as providing  
9 what they think next quarter's earning might be, to actually  
10 writing a full-blown report on why they think this might be a  
11 good stock to buy or sell.

12 Q Have you testified before?

13 A This would be the first time I have testified in court,  
14 but I have testified in front of Congress.

15 Q And when did you testify in Congress -- in front of  
16 Congress, and for what purpose?

17 A I believe it was in 2011, where I was -- I testified  
18 before the Senate Banking and Finance Committee to basically  
19 provide an overview of what was happening in my division at  
20 the SEC.

21 MS. DENERSTEIN: Your Honor, we move to qualify  
22 Professor Lewis as an expert in analyzing markets and trading  
23 data.

24 MR. PITLUCK: Your Honor, pursuant to the opinions  
25 offered, no objection.

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1 THE COURT: All right. We will qualify Professor  
2 Lewis as an expert in analyzing markets and trading data.

3 BY MS. DENERSTEIN:

4 Q Professor Lewis, do you know Evan Greebel?

5 A No.

6 Q Have you ever met Evan Greebel?

7 A No.

8 Q Have you spoken to Mr. Greebel?

9 A No.

10 Q What is a stock?

11 A A stock is a security that provides its owner with a  
12 claim or a right to own a part of a company.

13 Q And what is a public company?

14 A A public company is a firm that has decided to allow  
15 investors to buy its stock, any investor to buy its stock, and  
16 in exchange for that right to sell securities to almost  
17 anybody, it obligates itself to certain mandatory filings with  
18 the US Securities and Exchange Commission.

19 Q And what is a private company?

20 A A private company is a firm that has chosen not to have a  
21 public listing of its stock, and the owners in that company  
22 would be restricted to certain types.

23 Q Certain types of what?

24 A Certain types of investors.

25 Q What are some ways that a private company can become a

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1 public company?

2 A There are two principal ways a private company can become  
3 public. One is the more traditional route, which is something  
4 called an initial public offering, where that company decides  
5 to list on an organized exchange and raise money that way by  
6 selling shares of stock in its company. An alternative way to  
7 actually become a public company, if you are private, is to  
8 acquire a publicly traded company, typically a shell company  
9 that really doesn't have any active business and effectively  
10 become a public company through that shell company.

11 Q Is the second thing you just mentioned called a reverse  
12 merger?

13 A Yes.

14 Q What is the purpose of issuing stock to the public  
15 generally speaking?

16 A Generally speaking, companies issue stock to the public  
17 because they need to find money to take on new investments and  
18 run their business.

19 Q Is it common for public companies to have different types  
20 of financing?

21 A Yes.

22 Q What are some of those types of financing?

23 A Firms have a wide choice of different financings. They  
24 can borrow money from the bank, for example, they can issue  
25 debt in a public market, and they can issue equity as well.

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1 Stock.

2 Q What is Nasdaq?

3 A Nasdaq is one of the largest -- it is the second largest  
4 exchange for trading stock.

5 Q And what kind of requirements, generally speaking, does a  
6 company have to meet to be exchanged on Nasdaq?

7 A To be listed on Nasdaq, a company typically has to meet  
8 certain financial requirements, solvency, certain amount of  
9 capital. It also obligates itself to certain corporate  
10 governance conditions, such as you have for your board of  
11 directors, you have to have an independent board, you have to  
12 have an independent board, you have to have a compensation  
13 committee that is independent, as an example.

14 Q What is the over-the-counter bulletin board stock market?

15 A The over-the-counter bulletin board stock market is a  
16 venue where you can buy and sell stocks that are not listed on  
17 public exchanges but are still held by public investors.

18 Q How do the regulatory requirements compare, generally  
19 speaking, for over-the-counter bulletin board market versus  
20 Nasdaq?

21 A As a general rule, you are not obli- -- you are not held  
22 to the same set of standards, so the regulatory touch is  
23 lighter on the over-the-counter bulletin board market than it  
24 would be on a public exchange like Nasdaq.

25 Q What types of companies, generally speaking, trade on the

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1 over-the-counter bulletin board market?

2 A The typical company on the over-the-counter bulletin  
3 board market would be a firm that an investor would consider  
4 to be highly speculative, they are typically relatively very  
5 small companies that are in early stages of their lifecycle.

6 Q And what do you mean by "speculative"?

7 A I mean that they are risky as an investment. Stock  
8 prices change quite a bit from day-to-day, relative to a firm  
9 that would be listed on the Nasdaq.

10 Q Why is that?

11 A Because they are younger, less established companies.  
12 They tend to have less developed business models. They may  
13 not even be profitable at the point they are listed on the OTC  
14 bulletin board. You can -- I guess you want to think about  
15 them, and you can think about them almost as being lottery  
16 tickets, and a lot of people analogize to OTC bulletin board  
17 stocks as lottery tickets.

18 Q What is a broker?

19 A A broker is an entity that facilitates the buying and  
20 selling of stock for an individual investor.

21 Q What is a market maker?

22 A A market maker is an entity that actually engages in the  
23 buying and selling of those stocks.

24 Q Do market makers always receive an equal number of buy  
25 and sell orders on a daily basis?

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1 A Market makers, no.

2 Q And why is that?

3 A Because the number of transactions that a market maker  
4 executes depends on the demands by its customers to buy stock  
5 and to sell stock.

6 Q What is share price?

7 A Share price is simply what you would have to pay to buy a  
8 share of a particular company's stock.

9 Q And what typically happens to share price when more  
10 investors are buying?

11 A It typically goes up.

12 Q And what typically happens to share price when more  
13 investors are selling it?

14 A It typically goes down.

15 Q In your experience, do all -- in your experience, what  
16 types of trading strategies do -- what are some examples of  
17 trading strategies that investors employ?

18 A Investors employ a number of different trading  
19 strategies. One can simply be to buy securities today and  
20 earn a fair rate of return for holding an investment, so it is  
21 called buy and hold strategy where you are simply trying to  
22 earn money based on how risky that company is. You are not  
23 making a real judgment call on whether you think it is  
24 overvalued in the market or undervalued in the market. Other  
25 investors buy securities because they believe they are

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1 underpriced and they are worth a lot more than they currently  
2 have to pay in the market. So those are two examples of  
3 trading strategies.

4 Q Let's turn to Retrophin. Can I -- you have a book in  
5 front of you?

6 A Yes.

7 Q Can you turn to Government Exhibit 960, which I believe  
8 is in the second half of the book, in evidence.

9 A Yes. I'm there.

10 Q And that is -- what is that?

11 A This is an 8-K filing for Desert Gateway.

12 Q And what date of the report is there?

13 A I'm sorry. I didn't hear your question.

14 Q What is the date? Sorry.

15 A The date is December 12, 2012.

16 Q And are you familiar with this document?

17 A Yes.

18 Q What is an 8-K?

19 A An 8-K is an mandatory filing that companies are required  
20 to submit to the SEC when there's been a material event.

21 Q Are 8-Ks available to the public?

22 A Yes.

23 Q Does it cost for the public to look at an 8-K?

24 A No.

25 Q How would you do that if you wanted to?



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1 A You would go to the SEC web site and go to the EDGAR spot  
2 in the SEC web site, and you could download it.

3 Q And what is this the 8-K for?

4 A This 8-K is for Retrophin's reverse merger with Desert  
5 Gateway.

6 Q Can you turn to page 2 at the bottom. Can you please  
7 read that paragraph.

8 A Pursuant to an agreement in plan of merger, dated  
9 December 12, 2012, or the merger agreement, by and among  
10 Desert Gateway, Inc., a Delaware corporation which is referred  
11 to herein as the company, Desert Gateway Acquisition Corp, a  
12 Delaware corporation, and wholly-owned subsidiary of the  
13 company, or merger sub, and Retrophin, Inc., a Delaware  
14 corporation, which is referred to hereinafter as Retrophin,  
15 merger submerged with and into Retrophin, with Retrophin  
16 remaining as the surviving entity and a wholly-owned operating  
17 subsidiary of the company. This transaction is referred to  
18 throughout this report as the merger. The merger was  
19 effective as of December 12, 2012, upon the filing of the  
20 certificate of merger with the Secretary of State of the State  
21 of Delaware.

22 Q Can you turn to page 75 of 80 in the lower left-hand  
23 corner. And can you look down where it says on December 10,  
24 2012?

25 A Yes. On December 10, 2012, in connection with the

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1 conversion of a convertible promissory note, the company  
2 issued 2,500,000 shares to the holder of such note.

3 Q And then the next paragraph?

4 A As of December 17, 2012, we had outstanding 8,338,837  
5 shares of common stock. Of these shares, 5,838,837, are  
6 restricted securities under Rule 144, in that they were issued  
7 in private transactions not involving a public offering.

8 Q What does restricted security mean?

9 A It means you are unable to generally buy and sell them.

10 Q And from this, how -- from this exhibit, how many freely  
11 traded shares are available?

12 A There are 2,500,000 freely traded shares.

13 Q And this is as of what date?

14 A December 17, 2012.

15 Q And what does "free trading shares" mean?

16 A It means that you can sell those shares so they are at --  
17 you're free to buy and sell these shares.

18 Q At this time, could you buy these shares on a public --  
19 an exchange like Nasdaq?

20 A No.

21 Q Where could you buy them?

22 A It would be on the over-the-counter bulletin board  
23 market.

24 Q And what is the risk level associated with the  
25 over-the-counter bulletin board market?

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1 A It is very high. It's a highly speculative place -- it's  
2 a place for highly speculative securities to trade.

3 Q Are risk factors disclosed in this 8-K?

4 A Yes, they are.

5 Q Directing your attention to page 23 --

6 A Yes.

7 Q -- can you read the first paragraph?

8 A Our business, as well as our shares of common stock, are  
9 highly speculative and involve a high degree of risk.

10 Investing in our common stock involves a high degree of risk.

11 Our securities should be purchased only by persons who can

12 afford to lose their entire investment. You should carefully

13 consider the risks and uncertainties described below together

14 with all of the other information included herein, including

15 the financial statements and related notes, before deciding to

16 invest in our common stock. If any of the following risks

17 actually occur, they would materially harm our business,

18 prospects, financial condition and results of operations. In

19 this event, the market price of our common stock could decline

20 and you could lose part or all of your investment.

21 Q If you flip through this document, getting on this page,

22 are there other risks that are disclosed?

23 A Yes.

24 Q And are there over 20 pages worth of risks that are

25 disclosed?

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1 A There are.

2 Q I want to turn to Defense Exhibit 116-52 in evidence. It  
3 is Retrophin's December 2013 S-1 form. Should be in the front  
4 half.

5 A Okay. I'm there.

6 Q Are you familiar with this document?

7 A Yes, I am.

8 Q What is it?

9 A This is a form S-1. This is a document that declares  
10 Retrophin's intent to uplist their stock on the Nasdaq  
11 exchange.

12 Q And "uplist" means what?

13 A It means to basically move from the over-the-counter  
14 bulletin board to the Nasdaq exchange.

15 Q I want to direct your attention to page 66 of 186 in the  
16 lower right corner.

17 A Okay.

18 Q Can you read the top, please.

19 A In January 2013, we sold an aggregate of 272,221 shares  
20 of common stock at 3 dollars per share in certain private  
21 placement transactions, for an aggregate purchase price of  
22 \$816,664 in cash. The issuance of such shares of common stock  
23 was not registered under the Securities Act as such issuance  
24 was exempt from registration under Section 4(2) of the  
25 Securities Act and Regulation D promulgated thereunder.

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1 Q The next paragraph, please.

2 A On February 14, 2013, we closed a private placement of  
3 3,045,929 shares of our common stock, at a purchase price of 3  
4 dollars per share, or 9,137,787 in the aggregate, and warrants  
5 to purchase up to an aggregate of 1,597,969 shares of common  
6 stock, with an exercise price of \$3.60 per such share  
7 underlying any warrant.

8 Q Can you skip to the next paragraph, please.

9 A On August 15, 2013, we closed a private placement and  
10 sold 5,531,401 shares of our common stock, at a purchase price  
11 of \$4.50 per share, or 24,891,303, in the aggregate.

12 Q What do these disclosures mean?

13 A They mean that Retrophin at two different points in time  
14 raised capital in what -- in a vehicle that is known as a  
15 PIPE.

16 Q And are you talking about in February 2013 and August  
17 2013?

18 A Actually, I was referring to January and February, also  
19 in August of '13, they also had another PIPE.

20 Q So how many PIPEs?

21 A Three PIPEs.

22 Q And PIPEs means what?

23 A It means private issuance of public equity.

24 Q So on three different occasions in 2013, Retrophin raised  
25 money?

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1 A Correct.

2 Q According to this document?

3 And how much money was raised in January 2013?

4 A It says \$816,664.

5 Q And how much was raised on February 14, 2013?

6 A \$9,137,787.

7 Q How much was raised on August 15, 2013?

8 A \$24,891,303.

9 Q I am going to show you -- or you have in front of you,  
10 actually, Defense Exhibit 130-85. Professor Lewis, let me  
11 know when you have it.

12 A I have it.

13 THE COURTROOM DEPUTY: Is it in evidence?

14 MS. DENERSTEIN: Yes.

15 BY MS. DENERSTEIN:

16 Q Retrophin's January 10, 2014 press release announcing a  
17 public offering. What's a public offering?

18 A A public offering is one of the vehicles that you can use  
19 to have your -- to sell equity on a public exchange.

20 Q What does the first paragraph of this release describe?

21 A It describes Retrophin's intent to sell 4,705,882 shares  
22 of common stock at price of \$8.50.

23 Q If this is a public offering, who would the stock be  
24 available to?

25 A The stock would be available to all investors.

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1 Q And, again, how many shares were they -- were issued?

2 A 4,705,882.

3 Q And how much was going to be raised?

4 A Approximately \$40 million.

5 Q And how are each of these -- each of the four financings  
6 dates we discussed significant?

7 A Every -- they're significant to the extent that each time  
8 a company enters capital markets to raise new funds, they are  
9 needed to run and maintain their business. So they are all  
10 important events for a firm like Retrophin.

11 Q In the second paragraph, does this state where Retrophin  
12 will be listed?

13 A Yes.

14 Q What does it state?

15 A It says it will -- it has received approval to list its  
16 common stock on the Nasdaq global market under the ticker  
17 symbol RTRX.

18 Q And going back to the top of this document, what date is  
19 it?

20 A January 10, 2014.

21 Q And are you aware that Retrophin became listed on Nasdaq?

22 A Yes.

23 Q What would you expect to happen to trading activity after  
24 an over-the-counter company -- a company that's traded  
25 over-the-counter uplists to Nasdaq?

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1 A Well, there are more shares in circulation, so you would  
2 expect there to be more shares bought and sold.

3 Q What benefit is it to a company to be listed on Nasdaq?

4 A Being listed on a large public exchange like Nasdaq  
5 provides the company with a number of I think important  
6 benefits, but maybe the most is the ability to efficiently buy  
7 and sell shares, so -- and give you a chance to change your  
8 position in a relatively cost and -- low cost manner. It  
9 also, for the company, the reason the company would want to  
10 actually list on an exchange is that it is typically  
11 associated with lower cost of capital. That means it will  
12 require less money to actually go out and borrow money or  
13 obtain money financing.

14 Q Does the company have greater visibility when it is  
15 listed on Nasdaq?

16 A Yes. There is all -- there's a lot more attention paid  
17 to a company on Nasdaq than there would be on the OTC bulletin  
18 board.

19 Q What time periods are important to public companies?

20 A For a firm like Retrophin that is engaging in a number of  
21 capital transactions, all -- basically, all the time, before,  
22 during, and after, a capital raise is important.

23 Q I would like at this point to show you Government Exhibit  
24 992, in evidence.

25 A Okay.



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1 Q What is this?

2 A This is a chart of Retrophin, and it -- on the chart it  
3 displays daily closing prices and share volume over the period  
4 December 17, 2012 through September 30, 2014. The red  
5 graph -- the red line on the graph represents the price, and  
6 the blue bars on the graph represent the amount of volume that  
7 was traded that day.

8 Q And what is the source for the volume and price of this  
9 chart?

10 A This chart was prepared using a data service provider  
11 called Bloomberg.

12 Q If you look to January 2014, the bottom --

13 A Yes.

14 Q -- what happens to the volume of the stock once it is  
15 uplisted on Nasdaq?

16 A Yes.

17 Q The share volume.

18 A You can see that once the company's uplisted to Nasdaq,  
19 that the level of trading volume go up significantly.

20 Q And what about the level of trading volume -- before it  
21 is uplisted to Nasdaq?

22 A Well, it is difficult to see on the figure, but there  
23 are -- that is the trading -- the aggregate trading activity  
24 that took place on the same scale, as what we see after it  
25 went -- after it uplisted. You can detect a few bars, but

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1 there are not a lot -- it is hard to see them.

2 Q And what date does this chart begin?

3 A It begins on December 17, 2012.

4 Q And what date does it conclude?

5 A On September 29, 2014. September 30, 2014.

6 Q Where -- you mentioned earlier there were financings that  
7 occurred over Retrophin's public existence before it was  
8 uplisted to Nasdaq?

9 A Yes.

10 Q Where -- can you direct us to this chart where -- was one  
11 in August of 2013?

12 A That's correct.

13 MS. DENERSTEIN: Mr. Carter, can you go to August  
14 now. Can you blow that up. That would be great.

15 BY MS. DENERSTEIN:

16 Q So there's one in August of 2013, correct?

17 A Correct.

18 MS. DENERSTEIN: Put a little arrow on -- in between  
19 August 5 and August 27, Mr. Carter. Down by the date. Good.

20 BY MS. DENERSTEIN:

21 Q Okay. And then you also mentioned there was a financing  
22 in February -- on February 14, 2013?

23 A Yes.

24 Q Sorry. No, February -- yes.

25 A February.

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1 Q That would be somewhere in here?

2 A Yes.

3 MS. DENERSTEIN: Can you put an arrow there,  
4 Mr. Carter.

5 BY MS. DENERSTEIN:

6 Q And then there was a financing in January of 2013?

7 A Yes.

8 Q And then there was also a financing, if we go over --

9 MR. PITLUCK: Your Honor, I'm just going to object  
10 to the leading.

11 THE COURT: I am going to allow this limited leading  
12 just to get through to the point, all right.

13 MR. PITLUCK: Okay.

14 THE COURT: Don't worry, I will be fair to both  
15 sides.

16 MR. PITLUCK: Okay.

17 MS. DENERSTEIN: I will do better, Your Honor.

18 THE COURT: I think she is just trying to get dates  
19 and arrows put in the right spot, so we can give her some  
20 latitude.

21 BY MS. DENERSTEIN:

22 Q I am going to direct your attention to January of 2014.  
23 Is that when the uplisting happens?

24 A Yes, that is.

25 Q Going to try to put an arrow there. We lost the other

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1 arrow.

2 So over this time period between December 17, 2012  
3 and January 2014, there are four financings events that occur,  
4 correct?

5 A Correct.

6 Q And is the amount of money that's raised by Retrophin  
7 increasing over time?

8 A It does.

9 Q Okay. Do you know Martin Shkreli?

10 MS. DENERSTEIN: You can take this down, please,  
11 Mr. Carter. Thank you.

12 BY MS. DENERSTEIN:

13 Q Do you know Martin Shkreli, Ed Sullivan, Ron Tilles,  
14 Andrew Vaino, Tim Pierotti, Kevin Mulleady, Tom Fernandez, any  
15 of those names?

16 A No.

17 Q Have you spoken to any of the people who I just named?

18 A No.

19 Q Do you know anybody who works at Retrophin?

20 A No.

21 Q Did you speak to anybody at Retrophin -- who works at  
22 Retrophin?

23 A No.

24 Q At this point I want to turn to Government Exhibit 990 in  
25 evidence. And what does this summary chart show, Professor

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1 Lewis?

2 A This summary chart shows the stock holdings of the  
3 individuals identified in this group, as well as the total  
4 number of freely trading shares as of December 17, 2012.

5 Q And, again, how many freely trading shares were there as  
6 of December -- in December 2012?

7 A 2,500,000.

8 Q And how many were distributed to this group of the  
9 2,500,000?

10 A 2 million, or 80 percent.

11 Q And can you review the names of each of these individuals  
12 and how much free trading shares they had, according to this  
13 chart?

14 A Kevin Mulleady has 350,000 shares. That represents 14  
15 percent of the total free trading shares. Thomas Fernandez  
16 has 300,000 shares. That's 12 percent. Marek Biestek also  
17 has 300,000. Tim Pierotti has 350,000. Claridge Capital has  
18 350,000. Andrew Vaino has 250,000. That represents 10  
19 percent of the freely trading shares. And Ed Sullivan has  
20 100,000, which represents 4 percent of the total freely traded  
21 shares.

22 Q Does this chart indicate who owns the remaining 500,000  
23 shares?

24 A No, it does not.

25 Q What percentage of the 2.5 million free trading shares

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1 was held by Kevin Mulleady, Tom Fernandez, Marek Biestek,  
2 Claridge Capital, Andrew Vaino, and Ed Sullivan, combined?

3 A Without including Tim Pierotti or with Tim Pierotti?

4 Q Without including Tim Pierotti?

5 A So he owns 14 percent, so out of the 80, that would be 66  
6 percent of the freely traded shares.

7 Q What portion of total trading would you expect each of  
8 the six free trading -- of the free trading shareholders to  
9 account for in -- during this -- to account for?

10 MR. PITLUCK: Objection, Your Honor.

11 THE COURT: Overruled.

12 MR. PITLUCK: What time period? Foundation.

13 THE COURT: Is that -- are you talking about in  
14 December of 2012?

15 BY MS. DENERSTEIN:

16 Q 2012, January, that's December through February 28?

17 THE COURT: And the question is?

18 BY MS. DENERSTEIN:

19 Q 2013.

20 What portion of total trading would you expect each  
21 of the six free trading shareholders to account for between  
22 December 17, 2012 and February 28, 2013?

23 THE COURT: Go ahead and answer it, sir.

24 THE WITNESS: They own a large fraction of the total  
25 shares, so I would expect them to be transacting a relatively

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1 large fraction of the total shares.

2 BY MS. DENERSTEIN:

3 Q And what about if you -- does your answer change if you  
4 include Tim Pierotti with the group of six, during the same  
5 period of time, between December 17, 2012 and February 28,  
6 2013?

7 A No.

8 Q Sorry, I couldn't hear you, Professor Lewis.

9 A No.

10 Q And why would you expect them to be a percentage -- a  
11 large percentage of the trade?

12 A Because they own a large percentage of the company.

13 Q What are some reasons investors buy stock?

14 A Investors buy stock as an investment.

15 Q And what are some reasons investors sell stock?

16 A Investors may sell stock for a number of reasons. One  
17 could be they no longer like the prospects of the company, and  
18 it doesn't provide good fit for their portfolio. Investors  
19 also sell securities because they need the money for  
20 liquidity, such as to make a down payment on a home, something  
21 like that.

22 Q And what is the reason investors hold stock, might hold  
23 stock?

24 A Either to earn a return, commensurate with its risk, or  
25 for speculative purposes because you think it is undervalued.

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1 Q If a group of investors wanted to prevent the price of a  
2 stock from dropping, what would you expect them to do?

3 A I would expect them to buy the stock or hold it.

4 Q And what would you expect them to do if they wanted to  
5 keep the price stable?

6 A There -- not sell the stock. Or not buy the stock. Just  
7 not transact at all.

8 Q Did you analyze specific trading activity for the period  
9 December 17, 2012 through September 19, 2014 for the accounts  
10 of Martin Shkreli, Marek Biestek, Kevin Mulleady, Thomas  
11 Fernandez, Claridge Capital, Andrew Vaino, Edmund Sullivan,  
12 and Timothy Pierotti?

13 A Yes.

14 Q And was that analysis based on Bluesheet data?

15 A Yes.

16 Q And was it based on Bluesheet data in Government Exhibits  
17 950, 951, 952, 953, 954, for that same period of time?  
18 Government Exhibit 1001.

19 A I'm sorry, I'm having trouble locating this.

20 MS. DENERSTEIN: It is just the stip.

21 THE WITNESS: Yes.

22 (Continued on the next page.)  
23  
24  
25



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1 DIRECT EXAMINATION (Continued)

2 BY MS. DENERSTEIN::

3 Q Okay, so you analyzed that data.

4 A I did.

5 Q For the account.

6 A Yes.

7 Q And who told you which accounts to analyze?

8 A The defense.

9 Q I'm going to show you now Government Exhibit 221-04  
10 and -- I'm sorry, Defense Exhibit 221-04 and Defense  
11 Exhibit 221-05 for identification.

12 You have them in your binder.

13 A I do, yes.

14 MS. DENERSTEIN: Mr. Pitluck, do you need a copy?

15 MR. PITLUCK: I'm good. Thank you.

16 Q Do you have them, Professor Lewis?

17 A Yes.

18 Q So have you reviewed these exhibits?

19 A Yes, I have.

20 Q And what are they?

21 A The exhibits --

22 Q Do not explain them because they're not in evidence yet.

23 A These are exhibits that provided analysis of trading  
24 activity on the part of the individuals that we just  
25 discussed.

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1 Q And are they a fair and accurate depiction of your blue  
2 sheet analysis?

3 A They are.

4 MS. DENERSTEIN: At this time the defense offers  
5 Defense Exhibit, 2104 and Defense Exhibit 2105 in evidence.

6 MR. PITLUCK: No objection, Your Honor.

7 THE COURT: Received in evidence, Defense  
8 Exhibits 221-04 and 221-05.

9 (Defendant Exhibit 221-04, was received in  
10 evidence.)

11 (Defendant Exhibit 221-05, was received in  
12 evidence.)

13 (Exhibit published.)

14 Q So turning to 221-05.

15 Can you explain for the jury what this is?

16 A This particular exhibit provides the trading activity for  
17 Marek Biestek on a monthly basis. It shows -- each row in  
18 this exhibit is a month, and then columns represent the gross  
19 number of buys, that means how many shares of stock  
20 Mr. Biestek purchased during those various months.

21 The next column is gross sales. That's how many  
22 shares of stock Mr. Biestek sold during the months.

23 The column labeled "net volume" is the difference  
24 between those two columns.

25 And final column called "cumulative volume" just

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1 adds up the net volume numbers on a month-to-month basis to  
2 give you a picture or a view as to how much he had been  
3 trading in the aggregate.

4 Q And what does this -- can you go across a particular  
5 column starting with number 1?

6 A So number 1 is for the month of December 2012. In that  
7 month, Mr. Biestek did not buy any of Retrophin common stock,  
8 but he did sell a thousand shares. So his net volume was he  
9 sold a thousand shares, and so the cumulative volume in that  
10 case would be a thousand shares sold.

11 Q And what about in February 2013?

12 A So in February of 2013, that would be row 3, Mr. Biestek  
13 did -- once again, did not buy any shares of Retrophin but he  
14 did sell 2,350 shares for net volume on the month on net he  
15 sold more than he bought by the amount 2,350 shares.

16 And the cumulative volume simply takes what is net  
17 selling it then up to that point, which was a thousand shares,  
18 and it added the 2,350. So his cumulative volume was he was a  
19 net seller of 3,350 shares.

20 Q And so if you go to column 20 -- row 22, what does that  
21 tell you?

22 A Row 22 tells you, once again, the same information during  
23 that month: How many shares did he buy, how many did he sell,  
24 and what his net activity was.

25 But the final number down in the lower right-hand

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1 corner represents the total amount of net activity over that  
2 entire time period from 2012 to -- from December of 2012 to  
3 September 2014 he was a net seller of 10,850 shares.

4 Q And what does it mean to be a net seller?

5 A It means he sold more shares than he purchased.

6 Q And turning to page 2.

7 A Okay.

8 Q What does page 2 -- does page 2 represent the same type  
9 of information for Mr. Fernandez as the first page?

10 A Yes, it does.

11 And it demonstrates that Mr. Fernandez did not trade  
12 any Retrophin stock at all over this time period.

13 Q Turn to page 3.

14 What does this reflect?

15 A This provides the same analysis for Kevin Mulleady.

16 Q Over the same period of time?

17 A Yes.

18 Q And if you go to 22, row 22, what does row 22 reflect?

19 A It indicates that Mr. Mulleady sold 370,178 more shares  
20 than he purchased over this period.

21 Q Is Mr. Mulleady a net seller?

22 A Yes, he is.

23 Q And during which month is Mr. Mulleady selling? Can you  
24 also tell this from this chart?

25 A Yes, he's a net -- he's a net seller. Starting in

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1 January 2013 through February 2014, he is a net seller in  
2 every one of those months.

3 Q And is that 13 months?

4 A That's 14 months.

5 Q Your math's better than mine.

6 Turning to page 4.

7 What does this represent

8 A This is the same analysis for Ed Sullivan.

9 Q And over this period of time, what is Ed Sullivan?

10 A Over this entire period of time, Mr. Sullivan is a net  
11 buyer of Retrophin common stock.

12 Q And can we turn to the next page.

13 A Okay.

14 Q What is Mr. Tilles?

15 A Mr. Tilles is also a net buyer of Retrophin common stock.  
16 But he only made purchases on two months over that entire time  
17 period.

18 Q And how much did he purchase?

19 A 7,100 shares.

20 Q And going to Mr. Vaino, the next page?

21 A It's the same analysis for Mr. Vaino, and looking at the  
22 lower right-hand corner, you can see that he was a net seller  
23 of 210,953 shares.

24 Q And if you go to January, February of 2013, what is  
25 Mr. Vaino doing?

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1 A He's selling stock.

2 Q And how much does he sell?

3 A From January -- over the months of January and  
4 February 2013, he sells 55,000 shares.

5 Q Does he also sell in December of 2012?

6 A Yes, he does, he sells an additional 12,000 shares.

7 Q Turn to the next page.

8 What does this reflect?

9 A This is the same analysis for Martin Shkreli.

10 Q What does Martin Shkreli do over this time period?

11 A He, if you look in the lower right-hand corner, he ends  
12 up being a net seller of 91,372 shares of Retrophin common  
13 stock.

14 Q And on the final page?

15 A This is the same analysis for Tim Pierotti.

16 Q And what does it show?

17 A That he is a net seller of 350,000 shares.

18 Q So let's go to Defense Exhibit 2104.

19 A Okay.

20 Q And what do these pages represent?

21 A These pages are a graphical representation of exactly the  
22 same information that we just went through. It shows the  
23 monthly trading activity of this group of individuals.

24 Q And how can you tell from this chart what is a buy?

25 A Well, buys would be depicted as blue bars on this chart.

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1 Q And how can you tell what is a sell?

2 A They are depicted as red bars on this chart.

3 Q And how can you tell what period of time?

4 A At the bottom of the figure, you see December '12 through  
5 September '14. Those indicate the months, the same months  
6 that we analyzed in the prior set of exhibits.

7 Q And what does the left column represent?

8 A That represents the number of shares that were bought or  
9 sold.

10 Q And what does the box in the middle represent?

11 A That is the net trading activity that would represent  
12 what was in the lower right-hand corner of the prior exhibits.

13 Q And what does that represent on this chart for Marek  
14 Biestek?

15 A That box indicates that Marek Biestek sold 10,850 more  
16 shares than he purchased over the period of December 2012  
17 through September 2014.

18 Q And then turning to the next page.

19 A Okay.

20 Q What does it tell you?

21 A This is the same analysis for the same graphical --  
22 excuse me, analysis for Thomas Fernandez. And it shows just  
23 like before, he did the trading.

24 Q And turning to the next page, 3, Kevin Mulleady?

25 A It's the same analysis that we just looked at for Kevin

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1 Mulleady.

2 Q And how much does he sell over this time period?

3 A He sells 370,178 more shares than he purchases.

4 Q And is he selling between January 2013 and February 2014?

5 A Yes.

6 Q Let's turn to the next page, page 4.

7 A Okay.

8 Q What does this chart show for Ed Sullivan?

9 A This chart shows his trading activity. You can see that  
10 Mr. Sullivan buys and sells stock over this period, but on net  
11 he is -- he bought 22,879 more shares than he sold.

12 Q And when is his first sale?

13 A His first sale?

14 Q On this chart.

15 A It occurs in April 2013.

16 Q And when is his first buy?

17 A It is in November of 2013.

18 Q Is most of Mr. Sullivan's trading activity after November  
19 of 2013?

20 A Yes.

21 Q Turn to the next chart, page 5.

22 What does this represent?

23 A This is the monthly trading activity of Ron Tilles.

24 Q And what does it show?

25 A It shows that he was a buyer of Retrophin stock over this



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1 period of time.

2 Q And when did he buy?

3 A November 2013 and June of 2014.

4 Q It's hard to see the November of '13.

5 And how much did he buy in total?

6 A 7,100 shares.

7 Q Turning to the next page, page 6.

8 A Okay.

9 Q What does that show?

10 A It shows the monthly trading activity of Andrew Vaino.

11 Q And during what periods did Mr. Vaino sell?

12 A He's selling between -- December 2012 and March 2013. He  
13 also sells in April of 2014, august of 2014, and September of  
14 2014.

15 Q And what is his net trading activities?

16 A It is -- he has sold 210,953 more shares than he  
17 purchased.

18 Q Turning to page 7. What does that show?

19 A It shows a monthly trading activity of Martin Shkreli in  
20 a graphic form.

21 Q And when does he sell?

22 A He sells -- he sells one time in May of 2014.

23 Q And when is he buying?

24 A He is buying in February of 2013, August of 2013, and  
25 over the period of January 2014 to April 2014.

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1           And then he has a final settle. He also trades buys  
2 stock in September 2014.

3       Q     Now, we've just gone through the different activities --  
4 oh, last one. Page 8.

5           What does Tim Pierotti do?

6       A     Tim Pierotti is selling stock over -- over the period of  
7 December 12 -- I'm sorry, over December 2012 through August  
8 2013. And he's a net seller of 350,000 shares.

9       Q     Now, I'd like to show you Defense Exhibit 221-06 for  
10 identification. Okay.

11           What is it?

12       A     This is the aggregate -- this is the individual monthly  
13 net volume over the period December 17th, 2012 through  
14 September 19th, 2014.

15           It is providing the monthly net transactions for  
16 each of the individuals in this group.

17       Q     So if you could just use the first row to explain each  
18 column.

19       A     So row 1 of this chart is December of 2012 and it shows  
20 that Marek Biestek sold 1,000 more shares than he purchased in  
21 that month. Kevin Mulleady bought 600 more shares than he  
22 sold. And Andrew Vaino sold 12,000 more shares than he  
23 bought. And Martin Shkreli bought 200 shares.

24           The next column sums that activity, the total net  
25 activity for the group, and that particular set of individuals

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1 sold 12,200 more shares than they purchased. And then Tim  
2 Pierotti, who's indicated separately, sold 43,900 shares over  
3 that same time period.

4 So all of these individuals together sold 56,100  
5 more shares than they purchased.

6 Q So if you go to the bottom --

7 Can we offer Defense Exhibit 221-06 into evidence.

8 MR. PITLUCK: No objection.

9 THE COURT: We receive Defense Exhibit 221-06.

10 (Defendant Exhibit 221-06, was received in  
11 evidence.)

12 (Exhibit published.)

13 Q So if you look at column -- row 22.

14 A Yes.

15 Q The bottom. And we go to what's highlighted in yellow,  
16 where it says "653374".

17 What does that reflect?

18 A That number indicates that the group of individuals in  
19 the first seven columns sold 653,374 more shares than they  
20 purchased over the period beginning in December 2012 and  
21 ending in September 2014.

22 Q How many shares did they sell?

23 MR. PITLUCK: Objection, Your Honor.

24 THE COURT: Sustained.

25 Q If you go over to total net volume, that column.

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1 A Okay.

2 Q What does that number reflect under the total?

3 A That column reflects that if you also include the trading  
4 activity of Tim Pierotti, this group of individuals sold  
5 1,003,374 shares -- more shares than they purchased over the  
6 time period indicated.

7 Q If you had to look at this group in the aggregate, were  
8 they net sellers as a group?

9 A Yes.

10 Q And by how much?

11 A 1,003,374 shares.

12 Q If you removed Tim Pierotti, were they still net sellers  
13 in the aggregate?

14 A Yes.

15 Q By about how much?

16 A 653,374 -- 653,374 shares.

17 Q Why did you want to look -- why did you look at the  
18 buying and selling activity, what conclusions can you draw  
19 from looking at the buying and selling activity of these  
20 individuals over this period of time?

21 A I can conclude that as a group that they were net sellers  
22 of Retrophin common stock.

23 Q And what conclusion do you draw from the fact that they  
24 are net sellers?

25 A That the data does not to provide any indicators that

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1 they were behaving in a coordinated manner to cause that  
2 Retrophin stock to go up in value or to be maintained at a  
3 safe price.

4 Q And what is that based on?

5 A It's based on the fact that when investors sell stock,  
6 stock prices tend to go down.

7 Q Okay. Over this period of time between December 2012 --  
8 I'm sorry, between December 17, 2012 and September 19, 2014,  
9 do you recall how much stock Mr. Vaino sold in total?

10 A I have an entry for that, too, in one of the other  
11 exhibits.

12 Q You can refer back.

13 A You want the net amount that he sold or do you want the  
14 actual?

15 Q Net.

16 MR. PITLUCK: Can we get whichever exhibit the  
17 witness is looking at?

18 THE COURT: Yes.

19 (Exhibit published.)

20 A I'm still looking at 22 -- 221-06. I can answer the  
21 question from this exhibit.

22 MR. PITLUCK: Thank you.

23 A Mr. Vaino, ended up selling 210,953 more shares than he  
24 purchased.

25 Q And Mr. Mulleady, how many shares did he sell in total

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1 over this period of time?

2 A So Mr. Mulleady sold 370,178 more shares than he  
3 purchased over this period.

4 Q Going back very quickly to Government Exhibit 990 in  
5 evidence.

6 (Exhibit published.)

7 How many shares, according to this chart, did  
8 Mr. Mulleady have to sell?

9 A He has 353,000 shares.

10 Q And how many shares did Mr. Vaino have to sell?

11 A Mr. Vaino had 250,000 shares.

12 Q And how many did Mr. Pierotti have?

13 A Mr. Pierotti had 350,000 shares.

14 Q Going back to Defense Exhibit 221-06 --

15 A Okay.

16 Q -- how many shares did Mr. Pierotti sell?

17 A Mr. Pierotti sold 350,000 shares.

18 Q So is it fair to say that Mr. Pierotti, Mr. Vaino,  
19 Mr. Mulleady sold the vast majority of all of their free  
20 trading shares they acquired?

21 A Yes, that is correct.

22 Q Let's turn to Defense Exhibit 221-07 for identification.

23 A Okay.

24 Q What is it?

25 A This is a graphical representation of the chart of the

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1 numerical analysis that we just examined.

2 MS. DENERSTEIN: Your Honor, the defense offers  
3 Exhibit 221-07 in evidence.

4 MR. PITLUCK: No evidence.

5 THE COURT: We receive as Defense Exhibit 221-07.  
6 (Defendant Exhibit 221-07, was received in  
7 evidence.)

8 (Exhibit published.)

9 Q Can you just briefly explain this chart to the jury?

10 A This chart shows in a graphical format the net trans --  
11 net activity of the various individuals that are indicated in  
12 the box in the lower left-hand corner, and the colors are  
13 coded to the individual.

14 So bars that are above the line represent net buying  
15 activity, the bars that are below the line represent net  
16 selling activity, and we're tracking that activity from  
17 December 17th, 2012 through September 19th, 2014.

18 Q What's this based on?

19 A The exact -- it would be based on Exhibit 221-06.

20 Q What's the underlying source of the data?

21 A It is the blue sheet data.

22 Q And what does the left-hand column represent?

23 A It represents the number of net -- it's the number of  
24 shares, the number of net shares that were traded during that  
25 particular month.

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1 Q And what does the column on the bottom represent, the  
2 period of time?

3 A It's broken up by month. And the months begin in  
4 December 2012 and they end in September 2014.

5 Q And could you please name the accounts that are described  
6 on this chart?

7 A Yes.

8 Marek Biestek is represented by blue bars.

9 Thomas Fernandez who didn't trade, it doesn't  
10 actually appear on this graph.

11 Kevin Mulleady is the green bars.

12 Ed Sullivan the brown bars.

13 Ron Tilles is the slightly differentiated of blue.

14 Andrew Vaino is orange.

15 Martin Shkreli is red.

16 And Tim Pierotti is purple.

17 Q On this chart, the colors are doing different things,  
18 correct, over this period of time?

19 A The only thing they're doing differently is designating  
20 which individual was responsible for the trading activity.

21 Q With respect to each month, the chart's -- each select  
22 account is engaging in the same activity; is that right?

23 A That is correct.

24 MR. PITLUCK: Objection, Your Honor. To form.

25 Q What is Marek Biestek doing -- how can you tell what



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1 Marek Biestek is doing on this chart?

2 A By looking for the lighter blue bars on the chart and  
3 identifying where they -- where there are blue bars.

4 Q And so how would you identify what Andrew Vaino is doing?

5 A Andrew Vaino is represented by the orange bars on the  
6 chart.

7 Q And what is he doing over this period of time?

8 A Andrew Vaino is basically selling more than he's buying.  
9 He's a net seller over this period of time.

10 Q And what about different Kevin Mulleady?

11 A Kevin Mulleady is also a net seller over this time  
12 period.

13 Q And how is he identified on the chart, by what color?

14 A He is represented by the green bars.

15 Q So for each individual, you just match the color to the  
16 month of the trade to figure out what they're doing?

17 A Yes.

18 Q Trading-wise.

19 I would like to show you Government Exhibit 995 in  
20 evidence.

21 (Exhibit published.)

22 THE COURT: I think it might be a good time to give  
23 everybody a mid-afternoon break.

24 So please put your notebooks face down. Don't talk  
25 about the case. Remain open minded. And he will come and

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1 retrieve you soon. Thank you very much.

2 (Jury exits the courtroom.)

3 THE COURT: All right, let's take ten minutes.

4 MR. MASTRO: I just have one thing, Your Honor.

5 I noticed just before the break, and I handed a note  
6 to Ms. Denerstein. When we see the immediate transcription,  
7 and I know you go back and correct, but she asked the  
8 question: Each account is not engaging in the same activity  
9 and the witness said "correct," but the word "not" was left  
10 out of the transcript, and that completely changes --

11 MR. KESSLER: Why don't you just ask the question  
12 again.

13 MR. MASTRO: She elicited testimony how each account  
14 had different trading activity, but the question she actually  
15 asked was each account is not engaging in the same activity  
16 and he answered correct. The "not" is missing in the  
17 question.

18 MS. SMITH: Your Honor, he can just strike the  
19 question.

20 MR. MASTRO: I don't think we need to strike it. I  
21 know you also record, too, or you just... I know that the  
22 transcripts get cleaned up, but the "not" missing completely  
23 changes the answer.

24 MR. KESSLER: We're not objecting to anything, just  
25 for purposes of altering the transcript, since we don't have a

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1 recollection of what actually was said, let's just ask the  
2 question again.

3 MR. MASTRO: Do you see what I mean, Your Honor?

4 It was towards the very end of his testimony on the  
5 last exhibit that she was using, Ms. Denerstein.

6 THE COURT: Was it the question she asked  
7 specifically about Mr. Vaino?

8 MR. MASTRO: Yes, it was before she asked specific  
9 questions about the individual's trading activity. She  
10 asked --

11 THE COURT: Yes, it reads:

12 "QUESTION: With respect to each month, the  
13 chart, each account is engaging in the same activity;  
14 is that right?

15 "ANSWER: That's correct."

16 Is that the problem?

17 MR. MASTRO: Correct, he said -- the question was  
18 not engaging and then, of course, she elicits testimony about  
19 them not engaging in the same trading activity.

20 THE COURT: All right, so she'll rephrase the  
21 question or she'll just ask the question again?

22 MR. MASTRO: Correct.

23 THE COURT: Or would you rather just have it  
24 stricken?

25 MS. SMITH: It's up to the defense, but rather than

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1 just edit the transcript just have the question reasked.

2 MR. MASTRO: It's fine. She can reask the question.  
3 And I'm sure she'll get the same answer she got before.

4 THE COURT: Well, just to be clear in the record,  
5 why don't we strike the question and answer, she'll reask the  
6 question, and we will get his answer. Just because if they  
7 want a read back, I don't want to forget that that happened.

8 MR. MASTRO: It's no problem. It's no problem.

9 We can just strike the question and answer now, and  
10 then she'll just reask it.

11 THE COURT: Do the parties from any objection to  
12 just striking it without announcing it to the jury? I think  
13 will just confuse them.

14 MR. MASTRO: Correct.

15 THE COURT: All right, so do you know what we're  
16 talking about.

17 All right we'll take a break.

18 (Whereupon, a recess was taken at 3:33 p.m.)  
19  
20  
21  
22  
23  
24  
25

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1 (Jury enters the courtroom.)

2 THE COURT: All the jurors are present. Have a  
3 seat.

4 You may resume your direct, Ms. Denerstein.

5 BY MS. DENERSTEIN::

6 Q Mr. Carter, can you put up Defense 221-07.

7 Mr. Lewis, do you have it?

8 A I see it yes, I have it.

9 Q Based on this chart it shows that each account is not  
10 engaging in the same trading activity over this period of  
11 time, correct?

12 A Correct.

13 Q Okay. Can we go to Government's Exhibit 995 in evidence.  
14 What is this?

15 A This is an exhibit of daily closing prices and volume for  
16 Retrophin common stock over the period December 17, 2012,  
17 through February 28, 2013.

18 Q And what does the left column represent?

19 A Total, it represents total share of volume.

20 Q What does the bottom represent?

21 A It represents days over that time period.

22 Q And what do the green bars show?

23 A The green bars show the trading volume for the  
24 individuals in select accounts which are identified in the  
25 upper, right-hand corner of the screen Martin Shkreli, Kevin

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1 Mulleady, Andrew Vaino, Martin Biestek.

2 Q If you were going to -- does this chart reflect any of  
3 the pipes that you discussed previously in your testimony?

4 A Yes. It covers a period for the first two pipes that  
5 Retrophin issued.

6 Q Was the first pipe in January?

7 A January 2013, yes.

8 Q And when was the second pipe?

9 A It would be in February, February 14, 2013.

10 Q And when does the chart end?

11 A February 28, 2013.

12 Q Is that ten days after, approximately, the February 14  
13 pipe?

14 A Yes, approximately.

15 Q Does this chart reflect the August 2013 pipe?

16 A No.

17 Q Does it reflect the public offering in January 2014?

18 A No.

19 Q Are those significant events?

20 A Yes.

21 Q What doesn't this chart describe with respect to the  
22 select accounts in green?

23 A You're unable to disentangle the actual trading behavior  
24 of the individuals in the account. For example, you don't  
25 know if one individual is buying and the other one was

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1 selling, so it mixes buying and selling together.

2 Q What about with respect to the purple bar?

3 A That is the trading activity of Tim Pierotti, also  
4 identified in the upper, right-hand corner.

5 Q Can you tell whether Tim Pierotti is buying or selling  
6 from this chart?

7 A Not from this chart.

8 Q Why does this matter whether somebody is buying or  
9 selling?

10 A Because generally speaking, prices are responding to  
11 buying pressure or selling pressure in the market. So if  
12 investors are, if a group is buying stock, that sends stock  
13 prices to go up. If they are selling stock, it tends to cause  
14 stock prices to go down.

15 Q Does this chart describe any activity by Mr. Fernandez?

16 A It does not.

17 Q Does it describe any activity by Mr. Sullivan?

18 A It does not.

19 Q And why does it matter whether the select account is  
20 selling as opposed to buying, based on your analysis?

21 A Because it would be, you would expect it to influence,  
22 the direction of the price would change.

23 Q And how would the price change if you were selling?

24 A It would tend to reduce prices. When a market maker  
25 observes a lot of investors coming to the market who want to

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1 sell the stock, that market maker infers that they may know  
2 something that he doesn't, so he lowers the price that he's  
3 willing to pay for that stock.

4 Q So if you were looking for coordinating trading activity  
5 to support a price increase or stabilizing the price, what  
6 would you look for?

7 A I would look for volume and price changes simultaneously.

8 Q Would you also look at buying?

9 A I would if I wanted to look for evidence that the price  
10 was going up or, I would expect to see buying so I would look  
11 for buying.

12 Q Over this period of time -- let's go to something, let's  
13 go to Defendant's Exhibit 221-02 for identification, what is  
14 that?

15 A This is the trading activity over this time period for  
16 the individuals that we, that I had previously identified, so  
17 a group of individuals that includes Martin Shkreli and Tim  
18 Pierotti.

19 MS. DENERSTEIN: The defense offers 221-02 in  
20 evidence.

21 MR. PITLUCK: No objection, your Honor.

22 THE COURT: We will receive Defense Exhibit 221-02  
23 in evidence.

24 (Defendant Exhibit 221-02, was received in  
25 evidence.)



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1 BY MS. DENERSTEIN::

2 Q Can you describe this chart to the jury, please?

3 A This chart looks at the net trading activity of these  
4 individuals over the same period as the exhibit that we just  
5 examined. And what you can conclude from that is that over  
6 this period of time, Thomas Fernandez, Ed Sullivan, Ron Tilles  
7 did not trade. Martin Biestek, Kevin Mulleady, Andrew Vaino  
8 and Tim Pierotti all traded. They all sold.

9 One of the things that you can see, if you look at  
10 Kevin Mulleady, who is the third column over, is that over  
11 that period he bought 4,400 shares and sold 31,150 shares. So  
12 the box in the middle is the net trading activity. It  
13 indicates that collectively for all these individuals they  
14 sold 226,505 more shares than they bought.

15 Q Why did you look at the period of December 17, 2012  
16 through February 28, 2013?

17 A Because that was the time period that the Government was  
18 examining.

19 Q And what did you conclude when you say it was net trading  
20 activity?

21 A I concluded as a group, these individuals, are net  
22 sellers of Retrophin common stock.

23 Q How did that you impact your analysis?

24 A I don't understand your question.

25 Q What do you conclude from the fact that they were net

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1 sellers?

2 A I can conclude that as a group that there is no, the data  
3 does not, is not consistent with this group behaving in a  
4 coordinated matter over that time period to try to attempt to  
5 cause Retrophin stock price to go up or remain stable.

6 Q Just for clarity, blue equals what?

7 A Blue bars represent the total number of shares that were  
8 sold over this time period -- the total number of shares that  
9 were purchased over this time period by these groups of  
10 individuals.

11 Q And red is?

12 A That would represent the number of shares that were  
13 actually sold by these individuals over this time period.

14 Q And again, if you remove Mr. Pierotti's trading activity,  
15 what happens to the trading?

16 A It has the same qualitative characteristics, even if you  
17 exclude Mr. Pierotti. This group was still selling more  
18 shares than they were purchasing.

19 Q At this time can we show you Defendant's Exhibit 221-03  
20 for identification. What is that?

21 A This exhibit is an analysis of trading activity by the  
22 same group of individuals that we just looked at over the  
23 period December 17, 2012, through February 28, 2013. The key  
24 difference here is we are providing that trading activity on a  
25 monthly basis for the months of December 2012, through

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1 February 2013. So the --

2 MS. DENERSTEIN: We offer Defendant's Exhibit 221-03  
3 in evidence into.

4 MR. PITLUCK: No objection.

5 THE COURT: We receive Defendant's Exhibit 221-03.

6 (Defendant Exhibit 221-03, was received in  
7 evidence.)

8 BY MS. DENERSTEIN::

9 Q Can you describe this for the jury, please?

10 A Yes. Each of the first three rows in this exhibit  
11 illustrate the number of shares that the individuals either  
12 bought or sold over these various months.

13 So if I could just take the first row and explain  
14 how that was put together. In December 2012 Marek Biestek  
15 sold 1000 shares, Kevin Mulleady bought 600 shares, Andrew  
16 Vaino sold 12,000 shares, Martin Shkreli bought 200 shares,  
17 and Tim Pierotti sold 43,900 shares. Mr. Fernandez, Sullivan  
18 and Claridge did not trade over that period.

19 Q What happens in the next row, January 2013?

20 A Over that period Mr. Mulleady purchased 3,300 shares and  
21 sold 15,100 shares. Mr. Vaino sold 42,000 shares. And  
22 Mr. Pierotti sold 14,500 shares.

23 Q Is net selling consistent with a coordinated effort to  
24 stabilize or push up share price?

25 MR. PITLUCK: Objection. Leading.

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1 THE COURT: Sustained.

2 Q Based on your analysis, what did you conclude about  
3 whether or not these accounts were net sellers?

4 A I was able to conclude, if you look at the bottom row,  
5 which is the net activity over this entire period, that this  
6 group of individuals, with the exception of Martin Shkreli,  
7 were all net sellers of Retrophin common stock. As a group  
8 they were collectively net sellers of Retrophin common stock.

9 Q Who hired you?

10 A The defense.

11 Q When?

12 A Last August.

13 Q Do you know anyone at Gibson Dunn prior to being hired?

14 A I met, I was a guest speaker for Gibson Dunn attorneys  
15 class at Georgetown Law School while at the SEC. But I  
16 actually don't remember his name.

17 Q Is that Gibson Dunn lawyer, who's name you don't  
18 remember, involved in this case?

19 A No, he's not.

20 Q Do you know anybody at Dubin Consulting?

21 A No, I don't.

22 Q Are you being paid?

23 A Yes.

24 Q By whom?

25 A The defense.

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1 Q How much are you being paid?

2 A \$1,000 an hour.

3 Q How many hours have you worked on this matter to date?

4 A Approximately 70.

5 Q And so how much is due to you?

6 A Approximately \$70,000.

7 Q Are you also being paid for your time in court today?

8 A Yes, I am.

9 Q Let's just, did you meet with Gibson Dunn in advance of  
10 your testimony?

11 A Yes, I did.

12 Q And how many times did you meet with Gibson Dunn?

13 A I met with Gibson Dunn attorneys in person this week and  
14 had a number of phone calls with them over the period of  
15 August until this week. I don't know the exact number, but I  
16 would guess somewhere in the order of six to seven calls.

17 Q How many meetings did you have with attorneys from Gibson  
18 Dunn in person?

19 A I met, I came up to New York on, last week. So I was  
20 here for two days last week, and three days, so five days.

21 Q What happened during those meetings?

22 A I discussed the analysis that I had directed and prepared  
23 for purposes of this testimony.

24 Q And did Gibson Dunn ask you questions about that  
25 analysis?

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1 A Yes.

2 Q What are some general representative factors that can  
3 effect the price of stock?

4 A There are a lot of different things that can effect stock  
5 price.

6 THE COURT: May I ask you, I'm sorry, general  
7 representative factors, what does that mean?

8 Q What are some general factors that can effect the price  
9 of the stock?

10 A Basically stock prices change because of information. So  
11 information about the company's future prospects, so the  
12 things that are informative to investors would be the filings  
13 they make at the Securities & Exchange Commission, annual  
14 reports, quarterly reports. Analysts collect information and  
15 distribute it, news reports, general factors about the economy  
16 and how its doing and how Retrophin may behave relative to the  
17 economy. Things like that are generally things that investors  
18 are attempting to identify that can help them forecast the  
19 future profits and cash flows that they think a company will  
20 generate.

21 Q What are general reasons why investors might hold stock?

22 A Investors tend to hold stock I think for two basic  
23 reasons. One, is because they would like to have exposure to  
24 certain types of assets in their portfolio. And when you buy  
25 securities you hope to earn a return on those. Most investors

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1 are hoping to earn a fair return on their securities. If you  
2 ever invested in, through your pension fund or something, in a  
3 mutual fund like a large S&P 500 type fund, you're saying I'm  
4 somebody who wants to earn a fair return over time.

5 Other investors will buy stocks because they think  
6 they are not selling for the right price, they think they are  
7 too low. You might buy a stock for speculative reasons,  
8 hoping if you buy low, you'll be able to realize a profit when  
9 it goes to the price you believe it should be selling at.

10 Q Okay. Let's turn to the a different topic.

11 If a group of investors were coordinating to keep a  
12 stock's price up or stable, how would you expect them to react  
13 to drops in price?

14 A I would expect, if they were trying to stabilize the  
15 price or cause it to go up in response to a drop in price, I  
16 would expect them to step in and begin to buy stock in an  
17 effort to try and bring the price back to the level they  
18 wanted it to trade at.

19 Q Can I show you now Defendant's Exhibit 221-10A?

20 A Okay.

21 Q What is this?

22 A This is an analysis that I directed that was designed to  
23 ask a question following stock price declines: Was there any  
24 evidence on the part of this group of individuals that they  
25 were stepping in this, to actually buy stock in an effort to

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1 push it back to a price that it was before it dropped.

2 MS. DENERSTEIN: The defense offers Exhibit 221-10A  
3 in evidence.

4 MR. PITLUCK: No objection.

5 THE COURT: We will receive Defendant's Exhibit  
6 221-10A in evidence.

7 (Defendant Exhibit 221-10A, was received in  
8 evidence.)

9 BY MS. DENERSTEIN::

10 Q Professor Lewis, can you explain this chart to the jury?

11 A Yes. This chart is a summary of trades on days following  
12 stock price declines.

13 So if yesterday there was a drop in stock price this  
14 is going to analyze the trading activity of this group of  
15 individuals the next day. So if I can go through and just  
16 explain a row.

17 So if you take row one. What happened was on the  
18 prior day there was a price decline of .15.

19 Q Where did that information come from?

20 A From Bloomberg data. And that was December 20, 2012. On  
21 that day you see that Kevin Mulleady bought 100 shares of  
22 stock. If you look at second row you'll see that on  
23 December 21, the next day, 2012, there was a price drop of  
24 .50, so a larger price drop. And on that day Marek Biestek  
25 sold 1,000 shares, as did Andrew Vaino sold 500 shares.



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1 Q What does the column, the sale column, represent?

2 A The sale column represents the number of shares, the  
3 total number of shares that this group of individuals  
4 collectively sold.

5 Q Over what period of time does this chart cover?

6 A It covers period December 17, 2012, through September 19,  
7 2014.

8 Q Can you describe row 11?

9 A So on row 11, on January 29, 2013, so on let's say  
10 January 28 the stock price was selling for \$10 higher, so it  
11 drops by -- .10, .10 higher. It drops .10, on that day  
12 Mr. Vaino sold 1,500 shares. No one bought any shares over  
13 that period, so the buy column is zero and because it was only  
14 Mr. Vaino who was selling. The total was 1500.

15 Q What about the next day, let's go to page five -- page  
16 three, row 61.

17 A On row 61, on that day there was a .14 drop in stock  
18 price, that day was June 20, 2014. Mr. Sullivan sold 2,204  
19 shares.

20 Q Let's go back to row 50, page two?

21 A On row 50 that would be April 4, 2014, on that day  
22 Retrophin stock price dropped by \$2.25. Mr. Sullivan bought  
23 1,500 shares, Mr. Vaino sold 5,000 shares, Mr. Martin Shkreli  
24 bought 8,000 shares.

25 Over the course of the day there were 9,500 shares

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1 purchased by this group, and 5,000 shares that were sold by  
2 this group.

3 Q Let's go back to row 18.

4 A On row 18, there was a .20 stock price drop over the day,  
5 relative to the prior day close, that was on February 21,  
6 2013. And Marek Biestek sold 1,325 shares.

7 Q What about row 23?

8 A On that day there was a .1, March 8, 2013, a .1 drop in  
9 share price. And Mr. Mulleady sold 6,000 shares.

10 Q What about row 24?

11 A On that day was March 12, 2013, .90 drop in share stock.  
12 Mr. Biestek sold 1,000 shares.

13 Q What about row 27?

14 A On May 17, 2013, there was a .36 drop in share price.  
15 And Mr. Mulleady sold 2,800 shares.

16 Q What data did you find that individuals in this group  
17 were making large-scale buys on days following share price  
18 decline?

19 MR. PITLUCK: Object to the form, your Honor.

20 THE COURT: I would ask you to rephrase the  
21 question, please.

22 MS. DENERSTEIN: Sure, your Honor.

23 Q What did you conclude from the data about whether or not  
24 individuals in this group were regularly making large-scale  
25 buys on days following share price decline?

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1 A I would conclude that the data in this exhibit suggests  
2 that individuals were both buying and selling on these days;  
3 but there are preponderance of days that they were actually  
4 selling stock.

5 Q What do you mean there are preponderance of days where  
6 they are selling?

7 A More days when they were net sellers of Retrophin stock  
8 than net buyers of Retrophin stock.

9 Q Again, this is following a stock price decline?

10 A Correct.

11 Q Going now, can we show you Defendant's Exhibit 221-10 --  
12 221-09, what is this?

13 A This is just a represented day from that prior graph that  
14 tries to give you a little more color. So it's for  
15 January 14, 2013. What it shows is on that day, even though  
16 the stock price declined at 1.10, Mr. Mulleady sold 100 shares  
17 and Mr. Vaino sold 2,500 shares. And then the graph  
18 immediately below that in the box shows you what the stock  
19 price was in the three days prior to actually the 14th, so on  
20 January 9 it was \$5.10.

21 Q I'm going to slow you down, it hasn't been put in  
22 evidence.

23 MS. DENERSTEIN: We offer 221-09 in evidence.

24 MR. PITLUCK: No objection.

25 THE COURT: We received 221-09.

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1 (Defendant Exhibit 221-09, was received in  
2 evidence.)

3 Q Now the jury can see it too.

4 A Now you can see it.

5 Q If you can explain?

6 A Yes. So now that you can see what I was explaining I'll  
7 repeat myself.

8 This is January 14, 2013. It is a way of trying to  
9 get a little more color on the analysis that we just went  
10 through. So on January 14 it shows that Kevin Mulleady sold  
11 100 shares, Andrew Vaino sold 2,500 shares. So they were net  
12 sellers of 2,600 shares on that day.

13 That was a day that experienced the 1.10 drop in  
14 stock price. And the bottom box just shows you what the stock  
15 price was on the three days prior to the 14th. It was selling  
16 for \$5.10 on the 9th; \$5.10 on the 10th; and it dropped to \$4  
17 on January 11, 2013.

18 Q What is wash trade?

19 A Wash trading is a type of trading that is typically  
20 associated with price manipulation in which a group of  
21 investors tend to buy and sell exactly the same number of  
22 shares.

23 Q What would you look for to identify whether a group were  
24 engaged in wash trading, as you described it?

25 A I would look for evidence that a group of individuals was

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1 buying and selling the same number of shares.

2 Q Did you do that analysis with respect to the blue sheets  
3 in this matter?

4 A Yes, I did.

5 Q I'm going to show you Defendant's Exhibit 221-08 for  
6 identification. What is this, briefly, then I'll try to offer  
7 it?

8 A This is a summary of days where that group of individuals  
9 were simultaneously buying stock and selling stock in the  
10 market.

11 MS. DENERSTEIN: Your Honor, defense offers  
12 Defendant's Exhibit 221-08 eight in evidence.

13 MR. PITLUCK: No objection.

14 THE COURT: We receive in evidence Exhibit 221-08.

15 (Defendant Exhibit 221-08, was received in  
16 evidence.)

17 BY MS. DENERSTEIN::

18 Q Professor Lewis, can you explain this chart for the jury?

19 A Yes. So what this chart represents is it shows that  
20 there were 23 days in which this group of individuals, at  
21 least one or two of them, was simultaneously buying shares and  
22 selling shares.

23 Q Twenty-three days out of what number?

24 A Out of 427 days, so approximately 5 percent of the days  
25 that were examined over this period involved trades where one,

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1 at least one, of the group members was buying stock and at  
2 least one of the group members was selling stock.

3 Q And what is the number 427 based on?

4 A That number is based on the time period that covers  
5 December 17, 2012, through September 19, 2014. That would be  
6 the number of the trading days over that period.

7 Q What are trading days as opposed to regular days?

8 A Trading days are days when the market is open for people  
9 to buy and sell stock. So weekends would not be trading days,  
10 holidays is not trading days.

11 Q Again, it was this period of time December 17, 2012, to  
12 September 19, 2014?

13 A That's correct.

14 Q Can you then continue explaining the chart?

15 A So the chart shows the days, each row is a day when there  
16 was simultaneous buying and selling. We have, I have listed  
17 the individual members of this group. So each column  
18 represents the trading activity on these particular days for  
19 those individuals. Black numbers on chart represent buys, the  
20 red numbers on the chart represent sell orders.

21 So what you can see, if we take an example would be  
22 the first row on the exhibit, that would be for December 26,  
23 2012. What we see is that Kevin Mulleady bought 300 shares,  
24 Andrew Vaino sold 2,000 shares, and Martin Shkreli bought 100  
25 shares. No one else in that group traded on that day.

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1           The next set of the columns represent aggregating  
2     the buys and the sells. So the column labeled buy just takes  
3     all the buy trades and adds them up. So the 300 from  
4     Mr. Mulleady, the 100 from Mr. Martin Shkreli, adds up to 400.  
5     The sale column represents the sum of all the sale trades.  
6     Mr. Vaino is the only seller, so 2,000 shares.

7           Then the final column, which is identified as the  
8     buy/sale ratio is just the number of buys divided by the  
9     number of sales. So for that first row there were .2 buys for  
10    every sale.

11    Q     What do you want to calculate the buy/sale ratio?

12    A     To give an indication, let's the data speak, but provide  
13    an indication of whether there was evidence of wash trading.  
14    If there is evidence of wash trading, you would expect the  
15    ratio to be one, for every buy there be one sell.

16    Q     Based on your review of the Retrophin blue sheet data,  
17    did you find any evidence of wash trading by this group?

18    A     This data is inconsistent with wash trading.

19    Q     What is your opinion regarding the relationship between  
20    trading volume and share price?

21    A     In my opinion, volume itself is not sufficient to try and  
22    make predictions about how stock prices are going to change.  
23    What you want, what you need, what you need to infer from data  
24    is if you see a lot of volume you want to know whether people  
25    tend to be buying stock, then you would expect stock prices to

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1 go up. Or if they are tending to sell the stock, where you  
2 expect stock prices to go down. Volume by itself doesn't tell  
3 you whether that group of investors, whether buying it or  
4 selling it, it only tells you how much activity there actually  
5 was.

6 Q Directing you to Government's Exhibit 955 in evidence,  
7 can you tell the jury what this is?

8 A This is the chart we looked at earlier that shows the  
9 daily closing prices and volume numbers over the period  
10 December 17, 2012, through February 28, 2013. And it provides  
11 numbers for Mr. Pierotti individually.

12 Q I think you're looking at the wrong exhibit.

13 A 995?

14 Q 955.

15 A My apologies. I'm there.

16 Q What is this?

17 A This is Bloomberg data that provides closing price and  
18 share volume over the period December 17, 2012, through  
19 September 30, 2014.

20 Q During the time period between December 17 and  
21 February 28, 2013, how many trading days are there?

22 A Approximately 47.

23 Q What is the price range during that period of time for  
24 Retrophin, the end of day closing price for Retrophin?

25 A High price \$7.69. And appears the low price is \$2.90.



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1 Q Is that what you describe as volatile?

2 A Yes.

3 Q On how many days does the stock price decline between  
4 December 17, 2012 and February 28, 2013 based on the closing  
5 price?

6 A I'll need a minute. I calculated 27 days for the price  
7 declined over that period.

8 Q Of those 27 days where the price declined, are there  
9 instances where the share volume, according to this chart, is  
10 10,000 or greater?

11 A Yes.

12 Q How many days are those?

13 THE COURT: In the same day range?

14 Q Same day range, December 17, 2012 through February 28,  
15 2013.

16 A There are 11 days where the stock price, where share  
17 volume over that period is greater than 10,000.

18 Q On how many days of those days is the closing price lower  
19 than the previous day?

20 A Six.

21 Q On how many days then is the closing price higher?

22 A It would be higher on five of those days.

23 Q What is the summary of your findings regarding the  
24 trading pattern of the individual accounts you reviewed?

25 A That over the time period that I examined, which would be

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1 12/17/2012, through 9/30/2014, they were net sellers of  
2 Retrophin common stock.

3 Q And what did you conclude, based on your analysis that  
4 they were net sellers, about whether or not they were engaged  
5 in a coordinated pattern trading pattern to increase or  
6 stabilize price of the stock?

7 A I conclude that net selling activity is inconsistent with  
8 a coordinated attempt to cause stock prices to go up or to  
9 stabilizer.

10 Q Why did you look at whether or not the select accounts  
11 were selling stock after a price decline?

12 A If there was an attempt to stabilize price, that would be  
13 a period of time where I felt you would be more likely to  
14 detect it.

15 Q And based on what activity?

16 A Based on trading activity.

17 Q What type of trading activity?

18 A I would expect to see buys, more buys, buys, net buying  
19 activity following a price decline, if there was an attempt to  
20 cause stock prices to stabilize and push them back up.

21 MS. DENERSTEIN: One moment, your Honor.

22 No further questions.

23 MR. PITLUCK: May I inquire, Judge.

24 THE COURT: Yes, you may.

25 CROSS-EXAMINATION

LEWIS - CROSS - MR. PITLUCK

1 BY MR. PITLUCK::

2 Q Good afternoon, Professor Lewis.

3 A Good afternoon.

4 Q How are you?

5 A Good.

6 Q My name is David Pitluck. I'm an Assistant United States  
7 Attorney here in the Eastern District of New York. We've  
8 never met before, correct?

9 A That's correct.

10 Q Now, you testified that you were retained in August of  
11 2016 or August of 2017?

12 A It would be August 2017.

13 Q August 2017. And since that time, sir, you testified you  
14 worked about 70 hours on this case, correct?

15 A Approximately.

16 (Continued following page.)

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LEWIS - CROSS - MR. PITLUCK

1 Q And that includes your meetings with the defense,  
2 correct?

3 A Correct.

4 Q And it includes any work you've done preparing charts,  
5 correct?

6 A Correct.

7 Q And we saw some of the charts that you testified about,  
8 correct?

9 A Correct.

10 Q And did you prepare those charts, sir?

11 A No.

12 Q Who prepared those charts?

13 A Consultant for the defense.

14 Q A consultant for the defense prepared that chart.

15 The consultant is not an employee of yours, is he,  
16 sir?

17 A No.

18 Q Doesn't work at Vanderbilt University with you?

19 A No.

20 Q But you reviewed those charts, correct, sir?

21 A I reviewed and verified the accuracy of the charts.

22 Q You reviewed and verified the accuracy of each of the  
23 charts?

24 A Yes, sir.

25 Q And that doesn't just include the charts that were

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1 introduced today, right?

2 A That includes the charts that were introduced today.

3 Q Okay. But you are aware, aren't you, Professor Lewis,  
4 that other charts were produced that -- in your name, correct?

5 A Correct.

6 Q That you created expert disclosures, right?

7 A Yes.

8 Q And you reviewed those as well?

9 A Yes.

10 Q And, Professor Lewis, who was the consultant that  
11 prepared the chart?

12 A That was Cornerstone.

13 Q Okay. And do you know, sitting here today, how much  
14 Cornerstone was paid to create those charts?

15 A No.

16 Q Did you direct Cornerstone in preparing those charts?

17 A In preparing those charts?

18 Q In preparing the charts, yes.

19 A Yes, sir.

20 Q Approximately how long did it take Cornerstone to prepare  
21 those charts?

22 A I don't know.

23 Q They prepared the charts that you testified to today,  
24 right?

25 A Yes.

LEWIS - CROSS - MR. PITLUCK

1 Q And they prepared the charts that were produced in prior  
2 disclosures, right?

3 A I don't understand what you mean by "prior disclosures."

4 Q Okay. You are aware, are you not, Professor Lewis, that  
5 in September 2017, the defense disclosed charts that you  
6 prepared, correct?

7 A I am not aware. I'm not familiar with procedures.

8 Q Okay. Can I show you what's been marked for  
9 identification as Government Exhibit 132-2, Exhibit C --  
10 sorry, 132-3. We are going to get you a copy of that.

11 THE COURT: It is Exhibit C to that?

12 MR. PITLUCK: Government Exhibit 132-3.

13 THE COURT: Okay.

14 MS. DENERSTEIN: Mr. Pitluck, can you tell me -- oh,  
15 Exhibit C.

16 MR. PITLUCK: Yes. Exhibit C.

17 BY MR. PITLUCK:

18 Q Can you just take a look at those. Take as much time as  
19 you need, Professor.

20 A Okay.

21 Q Have you seen those before, Professor Lewis?

22 A Yes.

23 Q And there's approximately 206 pages of charts and data  
24 produced there, correct?

25 A Correct.

LEWIS - CROSS - MR. PITLUCK

1 Q And those are all -- they all say Lewis Exhibit 1.1 to  
2 Lewis Exhibit 5.1, right?

3 A Yes.

4 Q Okay. And did Cornerstone assist you with preparing  
5 those?

6 A Yes.

7 Q But you reviewed these, correct?

8 A Yes.

9 Q And they're accurate, right?

10 A I did not verify them.

11 Q You did not verify them?

12 A No, I did not.

13 Q Okay. But you were aware that they were produced with  
14 your name on them, right?

15 A Correct.

16 Q Now, Professor Lewis, Cornerstone wasn't paid out of your  
17 hourly rate, were they?

18 A I don't know.

19 Q Did you pay Cornerstone for their consulting work?

20 A No, I did not.

21 Q Let's talk a little bit about your background, Professor  
22 Lewis. You are currently a professor at Vanderbilt  
23 University; is that right?

24 A Yes.

25 Q And you said you have been in academia for 30-some-odd

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1 years; is that right, sir?

2 A Yes.

3 Q And other than your time at the SEC, you have been  
4 exclusively working in academia, right?

5 A Yes.

6 Q Now, when you were at the SEC, I think you testified that  
7 you had two roles; is that right, sir?

8 A Yes.

9 Q You were the chief economist, and the head of -- I'm  
10 going to use the acronym, if you don't mind, DERA?

11 A DERA.

12 Q And DERA is kind of known as the SEC's think tank; is  
13 that right, sir?

14 A That would be one way to characterize it, yes.

15 Q And I think you testified about some of the -- some of  
16 the things that DERA does, right?

17 A Yes.

18 Q It gets integrating financial economics to the core  
19 mission of the SEC, you said something along those lines; is  
20 that right, sir?

21 A I didn't say that, but that's an accurate representation  
22 of what it does.

23 Q Okay. And it's fair to say that DERA's economic analysis  
24 is consistent with best practice, right?

25 A Yes.



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1 Q And I think you testified that you -- you testified a  
2 moment before that this is the first time you have testified  
3 in a criminal trial, right?

4 A Yes.

5 Q And the first time you testified in any trial, right?

6 A Yes.

7 Q And other than the time you testified before Congress,  
8 this is the first time you have ever testified at all, right?

9 A I was deposed as a summary witness in an SEC matter while  
10 I was at the commission.

11 Q So it's safe to say that in your career in academia and  
12 your time at DERA, you've never actually investigated a market  
13 manipulation case, right?

14 A Could you restate the question.

15 Q Sure.

16 You would agree with me, yes or no, Professor Lewis,  
17 that in your academia career in your time at the SEC, you've  
18 never actually investigated a market manipulation case, right?

19 A I have -- while I was in DERA, my role as chief  
20 economist, I supervised and assisted in the market  
21 manipulation cases, yes.

22 Q So you, as the director of the economic research  
23 analysis, you supervised people who actually investigated  
24 market manipulation?

25 A Yes.

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1 Q And you've never directly been the lead investigator in  
2 an SEC enforcement case, right?

3 A The summary witness that I just described was part of an  
4 SEC enforcement case, but --

5 Q We will get to that, Professor Lewis, but you were a  
6 summary witness in that case, right?

7 A Correct.

8 Q And that's just somebody who presents charts as part of a  
9 deposition, summarizing data?

10 A Yes.

11 Q And am I correct in that case, Professor Lewis, you  
12 didn't prepare any of those charts, right?

13 A I did not.

14 Q You had a staff prepare them, right?

15 A Yes.

16 Q And you reviewed them and deposed -- were deposed about  
17 what they contained, right?

18 A Yes.

19 Q Now, you testified about some of the background knowledge  
20 you have of this case, right? You read the 8-K that was  
21 presented --

22 A Yes.

23 Q -- to you, and you read the S-1, correct?

24 A Not in detail, but, yes, I did read parts of both of  
25 those documents.

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1 Q Parts of them.

2 But you weren't involved in the events related to  
3 this case, right?

4 A No, I was not.

5 Q And you testified on direct examination you don't know  
6 the defendant, Evan Greebel, right?

7 A No, I do not.

8 Q And you don't know what his role in this case is, right?

9 A No.

10 Q And you testified about some of the people that were in  
11 your select accounts, correct?

12 A Yes.

13 Q Marek Biestek, right?

14 A Yes.

15 Q Thomas Fernandez, right?

16 A Yes.

17 Q Tim Pierotti?

18 A Yes.

19 Q Ron Tilles?

20 A Yes.

21 Q Andrew Vaino?

22 A Yes.

23 Q Martin Shkreli?

24 A Yes.

25 Q But you -- you testified you don't know any of those,

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1 correct?

2 A I do not.

3 Q So you don't know what relationship, if at all, those  
4 people have, if any of those people have with each other,  
5 right?

6 A I do not.

7 Q And you testified about how they got shares of stock,  
8 correct?

9 A Correct.

10 Q You don't know where they obtained those shares of stock,  
11 right?

12 A I believe it was in the convertible promissory note.

13 Q Okay. Do you know how much they paid for their shares of  
14 stock?

15 A I do not.

16 Q Do you know -- you don't know sitting here today, do you,  
17 how they were the ones who were able to purchase those shares  
18 of stock, right?

19 A I do not.

20 Q And just to be clear, you don't know of any relationship  
21 between those people, correct?

22 A Correct.

23 Q Now, you testified on direct about some exhibits you  
24 prepared, right?

25 A Yes.

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1 Q Can I direct you back to 221-09. The DX-221-09, which is  
2 in evidence. You testified a little bit about that, right?  
3 Let me know if you have it in front of you, sir.

4 A Yes, I do.

5 Q Now, you testified about this in connection with a trade  
6 following a day where there was a stock price decline, right?

7 A Yes.

8 Q And you didn't prepare this chart, correct, sir?

9 A Correct.

10 Q But you have reviewed this, correct?

11 A Yes.

12 Q And it is accurate?

13 A Yes.

14 Q And on this chart, the price from -- on January 9 is  
15 \$5.10, right?

16 A Yes.

17 Q Price of the share.

18 And the price on January 10, 2013 is \$5.10, as well,  
19 right?

20 A Yes.

21 Q Can I -- and then in -- January 11, 2013, it goes down to  
22 4 dollars; is that right?

23 A Yes.

24 Q I'd like to direct your attention to Government Exhibit  
25 955, which you were shown on direct, which is you

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1 probably --you have a couple binders there, so I don't want to  
2 confuse you, sir. But in the one that our paralegal just  
3 handed you, it is behind tab 38. It is also up on the screen.

4 A Yes.

5 Q So this is Bloomberg price and volume data, correct?

6 A Correct.

7 Q You would agree with me, Professor Lewis, that Bloomberg  
8 is a widely-accepted source of stock prices, correct?

9 A Yes.

10 Q And it is accurate, as far as you know?

11 A As far as I know.

12 Q Okay. And it is also a widely-accepted source of public  
13 share volume, right?

14 A Yes. It discloses -- it provides share volume data.

15 Q It provides share volume. And it is relied on in the  
16 financial sector; is that right, sir?

17 A By certain parts of the financial sector.

18 Q Certainly the public parts of the financial sector,  
19 right, invest -- public investors who need share volume will  
20 use Bloomberg to get their source, right?

21 A Can you define what you mean by "public investor"?

22 Q People who are -- your normal mom and pa investor who  
23 need to obtain public share volume, they would go to a source  
24 like Bloomberg to obtain their share volume, right?

25 A Bloomberg is a paid service, so assuming that ma and pa

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1 were able to buy the provided service, then that would be a  
2 useful source of volume information for them, yes.

3 Q So, Government Exhibit 955, can you point me to where the  
4 share closing price for January 10, 2013 is on there?

5 A It is not on this chart.

6 Q Not on there, sir.

7 And you know, don't you, Professor Lewis, based on  
8 your experience, that if there are not enough -- not enough  
9 shares traded of an individual stock, they don't have -- there  
10 is no public share price reported on Bloomberg, correct?

11 A I do not know the specifics of how Bloomberg discloses  
12 data.

13 Q Okay. You also said you looked at the Bluesheet data in  
14 this case, right?

15 A Yes, sir.

16 Q Okay. Can I show you -- I am going to have my paralegal  
17 pull up Government Exhibit 950. This is the Bluesheet data in  
18 evidence, and you reviewed this data, sir, right?

19 A Yes.

20 Q And you're familiar with Bluesheet data generally,  
21 correct?

22 A I am familiar with these particular exhibits.

23 Q These particular exhibits. But you have interpreted  
24 Bluesheet data before, right?

25 A I have never physically examined Bluesheet data, detailed

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1 Bluesheet data before, but I have supervised analyses that  
2 have used Bluesheet data.

3 Q You have never actually interpreted the Bluesheet data  
4 yourself?

5 A Not until I examined this data.

6 Q Okay. So I would like to direct your attention to --  
7 we're going to go to January 14, 2013. I'm sorry, January --  
8 yes. January 14, 2013. I think it is line 647. I'm sorry,  
9 January 10. I apologize.

10 Professor Lewis, do you see there's 50 shares of  
11 Desert Gateway traded there?

12 A Yes, sir.

13 Q What's the price there?

14 A It is five dollars.

15 Q So it's five dollars.

16 So you -- is it -- you would agree with me, yes or  
17 no, Professor Lewis, that the \$5.10 share price that you  
18 listed on DX-221-09 is inaccurate?

19 A Yes. I did not rely on the Bluesheet data to make  
20 that -- to pull up that.

21 Q Well, according to your exhibit, Professor Lewis, you  
22 relied on the Bloomberg price data, correct?

23 A That's correct.

24 Q And there's no Bloomberg price data for January 10, 2013;  
25 is that right?



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1 A That's correct.

2 Q So this chart is inaccurate, right, sir?

3 THE COURT: Which chart?

4 MR. PITLUCK: Defense Exhibit 221-09.

5 THE WITNESS: According to the Bluesheet data, the  
6 price is five dollars.

7 BY MR. PITLUCK:

8 Q So there's no price on Bloomberg, right?

9 A That's correct.

10 Q And according to the Bluesheet data --

11 A According to the exhibit.

12 Q And according to the Bluesheet data, it is five -- the  
13 only trade 50 shares that day were five dollars, right, sir?

14 A Yes.

15 Q Now, I would like to direct your attention to defense  
16 Exhibit 221-01 for identification. This is a chart you  
17 prepared, correct, sir?

18 A Yes. I directed to have prepared, yes.

19 Q You directed to have it prepared.

20 It wasn't introduced into evidence, was it, as far  
21 as you recall --

22 A I don't recall.

23 Q -- did you testify to this?

24 A I don't recall.

25 Q You don't recall testifying to this on direct

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1 examination?

2 A No.

3 Q But you prepared the direction of this chart, right, sir?

4 A Yes.

5 Q And you confirmed its accuracy?

6 A Yes.

7 MR. PITLUCK: Your Honor, I would offer Defense  
8 Exhibit 221-01 in evidence.

9 MS. DENERSTEIN: Object.

10 THE COURT: Is this something we need to discuss at  
11 sidebar?

12 MS. DENERSTEIN: Yes.

13 THE COURT: Okay.

14 (Sidebar conference.)

15 (Continued on the next page.)

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## SIDEBAR

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(WHEREUPON, the following proceedings were had at sidebar, out of the hearing of the open courtroom, to wit:)

4

THE COURT: So, Ms. Denerstein, your objection?

5

6

MS. DENERSTEIN: Yes. I wanted to know what is the basis for offering it? It is a hearsay objection. He didn't prepare it. He already testified he didn't prepare this.

7

8

9

MR. PITLUCK: He didn't prepare any of this, Judge. He just testified he reviewed it and verified its accuracy.

10

11

MS. DENERSTEIN: He didn't say he reviewed and verified this.

12

MR. PITLUCK: He just said that.

13

THE COURT: He said he directed its preparation.

14

MS. DENERSTEIN: Directed its preparation.

15

16

MR. PITLUCK: And he reviewed and verified its accuracy.

17

MS. DENERSTEIN: He said he did not. Did not.

18

19

MR. PITLUCK: I have to look at the transcript, Judge. I heard him say I reviewed it and verified its accuracy. This was a defense exhibit produced today. It was --

20

21

MR. KESSLER: About the exact same topic he has --

22

23

MS. DENERSTEIN: It is beyond the scope of direct. We haven't asked any questions about Bluesheet data volume.

24

MR. PITLUCK: Judge, I would offer two bases for it.

## SIDEBAR

1 I want to confirm that he did say he directed it and he  
2 reviewed and verified it for accuracy, because if that's  
3 enough, then it is his chart, it can be introduced. He was  
4 asked extensive questions about price and volume, and he's  
5 also verified its accuracy.

6 MR. KESSLER: He said, he verified its accuracy.

7 Question: Did you verify its accuracy? Answer: Yes.

8 THE COURT: Okay.

9 MR. CHAN: It doesn't matter. It's still outside  
10 the scope of the direct.

11 MR. PITLUCK: How are price and volume outside the  
12 scope of the direct?

13 MR. CHAN: He didn't testify about this chart. His  
14 opinion on this topic was not entered into evidence. Why even  
15 cross on this opinion now in evidence? We sought to reduce  
16 our expert opinions. To streamline this case, we removed  
17 things from our disclosures so that the expert is not  
18 testifying about them, and now the government wants to ask  
19 questions about topics that we removed from this scope of our  
20 direct. How is that appropriately in the scope?

21 MR. PITLUCK: He testified about price and volume on  
22 direct. I will do one better, Judge, about its credibility  
23 because that chart is materially inaccurate.

24 MR. CHAN: Credibility can't be proven by intrinsic  
25 evidence.

## SIDEBAR

1 MR. PITLUCK: I can absolutely prove credibility by  
2 intrinsic evidence when it is an exhibit he prepared and  
3 verified its accuracy --

4 MS. DENERSTEIN: He did not prepare the chart.

5 MR. PITLUCK: He verified its accuracy.

6 THE COURT: He directed its preparation.

7 MR. CHAN: Doesn't matter.

8 MR. PITLUCK: He just said --

9 THE COURT: Excuse me.

10 MR. PITLUCK: Sorry, Judge.

11 THE COURT: He directed its preparation and verified  
12 its accuracy. And it is sourced from Bluesheet data, which he  
13 said he reviewed during the timeframes starting December 17,  
14 2012, he focused mostly on a date up through -- I guess it was  
15 February or something, 2013, for many of these charts, but he  
16 also did admit data through September of 2014.

17 MR. PITLUCK: I think, Judge, his opinion was  
18 through September of 2014, too.

19 MR. CHAN: It's -- sorry.

20 THE COURT: I think it is fair for him for cross if  
21 he verified it, directed his preparation, and it calls into  
22 question his testimony, I think it is appropriate to allow the  
23 government to cross-examine him. It is not beyond the scope  
24 because he talked about the stock price and volume. He was  
25 offered as an expert in stock price and volume during this

## SIDEBAR

1 very time period. So how could we say it is not within the  
2 scope?

3 MR. CHAN: The government hasn't laid the  
4 foundation. They haven't asked -- they haven't sought to  
5 elicit the testimony that supposedly this is in contradiction  
6 to. They haven't said, do you remember that you testified  
7 about XYZ, and then given him a chance to review it.

8 And there is still no rule of evidence that the  
9 government has pointed to that allows them to prove a prior  
10 inconsistent statement through extrinsic evidence. It was a  
11 specifically enumerated exception that includes prior  
12 testimony, that's sworn, it does not include a draft chart  
13 that he previously approved and reviewed. That is not within  
14 the exception.

15 MS. DENERSTEIN: Prepared by someone else.

16 MR. CHAN: Prepared by someone else, that he  
17 reviewed. That is not an exception to the hearsay rules for  
18 proving up a prior inconsistent statement.

19 MR. KESSLER: Pretty sure when the Rule 806 when --  
20 when the hearsay statement is offered, that a declarant's  
21 credibility can be supported or attacked with other hearsay  
22 statements.

23 MR. PITLUCK: Judge --

24 MR. CHAN: Wrong.

25 MR. PITLUCK: Judge, the witness testified

## SIDEBAR

1 extensively about the correlation between price and volume.  
2 He provided his opinion about the correlation between price  
3 and volume. He prepared and supervised a chart that  
4 correlates price and volume. And he looked at the  
5 government's chart correlating price and volume. This is his.  
6 He's accepted. He's adopted it. There's no further  
7 foundation, Judge.

8 MR. CHAN: Except for this. They are trying to say  
9 you said something inconsistent in a piece of paper to the  
10 defense team. This witness did not say this supposedly  
11 inconsistent statement to the jury. So what is inconsistent  
12 about what -- the source of the inconsistent statement is  
13 being offered as if he said it in a setting in which that  
14 setting makes a difference here. I can understand if they  
15 would try to compare a public opinion versus a public opinion,  
16 or testimony versus testimony.

17 But to have him try -- to have the government try to  
18 show he's made an inconsistent statement here, with a chart  
19 that he ultimately decided not to introduce, or that the  
20 defense team decided not to introduce, does not show any  
21 inconsistent statements.

22 MS. DENERSTEIN: And when Exhibit C was provided, it  
23 said the analysis was ongoing. It did not say it was final,  
24 and we provided charts at that time. Literally in our letter  
25 it says the analysis is ongoing. Doesn't say it was

## SIDEBAR

1 conclusive.

2 MR. KESSLER: The letter said it reflects his  
3 findings and he never verified them.

4 MR. PITLUCK: He just said he verified them.

5 THE COURT: Right. Excuse me.

6 (Short pause.)

7 MR. PITLUCK: Judge, I think, most importantly,  
8 Judge, there's no inconsistency. He has offered opinions on  
9 Retrophin stock price and volume between the same date. He's  
10 prepared this chart. I am entitled to show it to him and ask  
11 him the question.

12 MS. DENERSTEIN: That's not true. He offered  
13 opinions actually on what the select accounts did. And when  
14 he was referring to share volume, he actually used Bloomberg,  
15 and he used your exhibit that's already in evidence.

16 THE COURT: This chart, Footnote 1 says, the volume  
17 refers to the same volume across all trades marked Bluesheet  
18 data, source is Bloomberg price data, Retrophin Bluesheet  
19 volume data.

20 MR. CHAN: I don't think that's what the government  
21 has been crossing on.

22 THE COURT: Well, this is the point. They are  
23 not -- I am not sure how it is hearsay, if they are offering  
24 this to show that it is an error. They are not offering it  
25 for the truth. They are offering to show that it is wrong,



## SIDEBAR

1 but it is not the truth.

2 MR. CHAN: Why does --

3 THE COURT: It is not hearsay. I don't think that's  
4 the basis for keeping it out. He said he directed his  
5 preparation, he said that he had looked at it and verified it,  
6 and I think there's -- it is ripe ground for cross. So I  
7 would overrule the objection.

8 MR. PITLUCK: Thank you, Judge.

9 THE COURT: Wait. They have one more point.

10 MR. CHAN: How is this different than offering the  
11 actual 3500 report of a witness? I don't see any difference.  
12 The 3500 indicates a prior inconsistent statement that the  
13 government isn't allowed to put in. In fact, the rule here is  
14 attacking it, 801(d), which lists the bases to attack  
15 credibility of a defendant -- of a witness' prior statement,  
16 are, A, things that are inconsistent but were given under  
17 penalty of perjury, B, is inconsistent and is offered to rebut  
18 an express or implied charge that the declarant recently  
19 fabricated it, or to rehabilitate the declarant's credibility.  
20 So that's to rebut. Or, C, identifies a person as someone  
21 that declarant perceived earlier. None of these exceptions go  
22 to being able to prove a prior inconsistent statement through  
23 an actual document.

24 MR. PITLUCK: It is not an inconsistent statement,  
25 Judge.

SIDEBAR

1 MR. CHAN: That's what they said.

2 MR. PITLUCK: It impeaches credibility. 806. It is  
3 also directly related to the scope of his testimony.

4 THE COURT: It is within the scope of the direct.  
5 He's testified to this very subject in this very time period.  
6 He's testified to the source of the information, and it's not  
7 being offered for the truth so it is not hearsay. It is  
8 cross-examination on credibility. And I think it is fair  
9 grounds. So the objection, respectfully, is overruled.

10 (Sidebar conference ends.)

11 (Continued on the next page.)  
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LEWIS - CROSS - MR. PITLUCK

1 (Open court.)

2 THE COURT: The objection is overruled.

3 MR. PITLUCK: Your Honor, we would offer Defense  
4 Exhibit 221-01 into admission.

5 THE COURT: The Court admits Defense Exhibit 221-01.  
6 (Defendant Exhibit 221-01, was received in  
7 evidence.)

8 BY MR. PITLUCK:

9 Q You had a chance to take a look at that, Professor Lewis?

10 A Yes, sir.

11 Q This is a chart that you did not prepare, correct, sir?

12 A I did not prepare it.

13 Q You reviewed it and you verified its accuracy, correct?

14 A You are unable to verify the accuracy of this chart using  
15 data I had because of the difference in the scale on the chart  
16 versus the granularity of the --

17 MS. DENERSTEIN: Objection.

18 THE COURT: Excuse me. Let him just finish his --  
19 did you finish your answer? I didn't hear the end of it. You  
20 said you couldn't --

21 THE WITNESS: I said I don't think it's possible  
22 for me to verify the accuracy of the chart, as it is  
23 presented.

24 THE COURT: Did you direct the preparation of this  
25 chart?

LEWIS - CROSS - MR. PITLUCK

1 THE WITNESS: Yes, I did.

2 THE COURT: All right.

3 BY MR. PITLUCK:

4 Q And I believe you testified a moment ago, Professor  
5 Lewis, that you verified it was accurate before it was  
6 produced, correct?

7 A If I did, I misspoke.

8 Q So your testimony here today, Professor Lewis, is that  
9 you did not check the accuracy of this chart, correct?

10 A 221-01, that's correct.

11 (Continued on the next page.)

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LEWIS - CROSS - PITLUCK

1 Q Because, according to your testimony, it is impossible to  
2 verify the accuracy of this chart?

3 A That is correct. Well, I could not do it.

4 Q So you see at the bottom that the source is Bloomberg  
5 pricing there, correct?

6 MS. DENERSTEIN: Objection.

7 MR. PITLUCK: It's in evidence, Judge, I can ask  
8 questions about it.

9 MS. DENERSTEIN: Move to strike.

10 THE COURT: We had a sidebar about this a few  
11 minutes ago and I made my ruling.

12 BY MR. PITLUCK::

13 Q So you see the source is Bloomberg price data and that's  
14 for the price, the blue line on this chart, correct, sir?

15 A Correct.

16 Q And the blue sheet data, RTRX, that's Retrophin, right,  
17 Professor?

18 A Correct.

19 Q The blue sheet data is for the volume, correct?

20 A Correct.

21 Q And you already looked at the Bloomberg price data in  
22 Government Exhibit 955, correct, sir?

23 A Correct.

24 Q And we looked at the blue sheet data, at least part of  
25 it, in Government Exhibit 950, right, sir?

LEWIS - CROSS - PITLUCK

1 A Yes.

2 Q So presumably, Professor Lewis, you could have checked  
3 the accuracy of this chart by taking those two simple pieces  
4 of data and comparing them, right?

5 A The scale on the chart does allow to a complete and  
6 accurate verification, it's broadly consistent with what you  
7 see.

8 Q Your testimony, Professor Lewis, is that you directed the  
9 preparation of the chart that you couldn't verify the accuracy  
10 of; is that right?

11 A For this chart, yes, it's just meant to be an  
12 illustrative chart.

13 THE COURT: I'm sorry, I didn't hear you.

14 A It's an illustrative chart.

15 Q This is something that you directed the preparation of,  
16 correct?

17 A Correct.

18 MS. DENERSTEIN: Objection. Asked and answered.

19 THE COURT: Sustained.

20 Q Now, Professor Lewis, you were asked a lot of questions  
21 about some of the exhibits that you prepared and testified  
22 regarding, correct?

23 A Correct.

24 Q So I'm going to show you Defense Exhibit 221-02, which is  
25 in evidence.

LEWIS - CROSS - PITLUCK

1 (Exhibit published.)

2 And you remember your testimony on this one,  
3 correct?

4 A Yes.

5 Q And this is a chart of trading activity between  
6 December 17th, 2012 and February 28th, 2013; is that right,  
7 sir?

8 A Yes.

9 Q And approximately, I think you testified about this on  
10 direct, but you testified that there were 2.5 million  
11 free-trading shares of Retrophin stock as of December 17th,  
12 2012, right?

13 A Yes.

14 Q And you got that from the 8-K for the Retrophin merger,  
15 right?

16 A Yes.

17 Q And you believe that's accurate, right, sir?

18 A Yes.

19 Q And you testified, did you not, sir, that the individuals  
20 listed on this chart owned 2 million of those shares,  
21 2 million of those Retrophin shares, right?

22 A Yes.

23 Q And sitting here today, you don't know who owned the  
24 other 500,000, correct?

25 A Correct.

LEWIS - CROSS - PITLUCK

1 Q And you don't know if those shares could be traded,  
2 right?

3 A The other 500,000 would be freely trading shares so it  
4 could be traded.

5 Q You don't know if there are any other restrictions on the  
6 ability to trade those, correct?

7 A If they're freely trading shares, they're free to trade.

8 Q And, so according to your analysis, the eight people on  
9 this chart controlled 2 million shares, correct?

10 A Yes.

11 Q And in this time period, I believe that your analysis was  
12 that three people sold no shares.

13 A Correct.

14 Q Thomas Fernandez, Edmund Sullivan and Ron Tillis did not  
15 sell any shares, correct?

16 A Correct.

17 Q And do you know if Mr. Shkreli had free-trading shares,  
18 sir?

19 A No, sir.

20 Q You don't know.

21 And all of these people together had a net trading  
22 activity of 226,505 shares in that three-month period,  
23 correct?

24 A Yes.

25 Q So that's less than 10 percent of the free-trading shares



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1 outstanding, right?

2 A Yes.

3 Q And Marek Biestek only sold 3,350 of the shares, right?

4 A Yes.

5 Q And that Tim Pierotti sold 132,125, correct?

6 A Yes.

7 Q More than -- I'm going to ask you to do a little simple  
8 math. That's about 60 percent of the net trading activity of  
9 this account, right?

10 A That's about right.

11 Q 132,000 out of 226?

12 A Right.

13 Q I'm going to defer to you then, Professor Lewis, about  
14 how much is that?

15 A 226, 132, so we're looking at about 80,000 left over. So  
16 I'll say approximately 60 percent.

17 Q And, in fact, Mr. Pierotti sold more than all of the  
18 other individuals on this chart put together in that time  
19 period, correct?

20 A Yes.

21 Q And the only other person -- and he sold more than twice  
22 as much as Andrew Vaino, correct, or nearly twice as much as  
23 Andrew Vaino?

24 A Nearly twice as much.

25 Q And you, Professor Lewis, you didn't compare this to the

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1 total volume traded over this time period, correct?

2 A That's correct.

3 Q You never did any analysis that pertained to that?

4 A No.

5 Q Never -- I'm sorry, I didn't mean to cut you off, sir.

6 A I didn't -- what I testified to, I have not done any  
7 analysis that would -- about that. But there are some  
8 exhibits that we did earlier that looked at total trading  
9 activity.

10 Q Looked at trading activity of this select group as  
11 compared to the buying of Retrophin stock, correct?

12 A Yes.

13 Q And I think I gave you a moment ago what I marked as  
14 Government Exhibit 13 -- I don't want to direct you to the  
15 wrong place, Professor Lewis, so I'm going to show you what's  
16 been marked as Government Exhibit 1325.

17 I'm sorry. Showing you what's been marked for  
18 identification Government Exhibit 1325.

19 Would you take a look at that, and I'm going to  
20 direct you to the last page, sir.

21 A Okay.

22 Q Have you seen this before, sir?

23 A Yes.

24 Q And did you direct the production of these documents?

25 A I did.

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1 Q Did you verify that they're accurate?

2 A I have not.

3 Q You have not verify that they are?

4 A No, sir.

5 Q But does this refresh your actual recollection,  
6 Professor Lewis, that this is the analysis you prepared  
7 regarding trading volume as compared to the total trading of  
8 the stock?

9 MS. DENERSTEIN: Objection.

10 THE COURT: Overruled.

11 A This is an analysis that was designed to compare the  
12 trading volume in this case of Tim Pierotti and the other like  
13 individuals, and how the volume, as we were measure it, from  
14 the blue sheet data compared to volume on the Bloomberg data.

15 Q And does it refresh your recollection, sir, that for the  
16 total individuals and Tim Pierotti between December 17th, 2012  
17 and February 28th, 2013, they constituted 69.87 percent of the  
18 total volume of the Retrophin shares traded in that time  
19 period?

20 A Yes.

21 Q So 70 -- nearly 70 percent of all trading in Retrophin  
22 shares were conducted by Tim Pierotti and the other selected  
23 individuals?

24 A According to Bloomberg volume.

25 Q According to Bloomberg data. The publicly-available

LEWIS - CROSS - PITLUCK

1 Bloomberg data.

2 A Correct.

3 Q I'd like to direct your attention to 221.

4 But that's not on 221-02, is it, your chart?

5 A I'm sorry?

6 Q Going back to Defense Exhibit 221-02. I apologize, I  
7 moved. Sometimes speak faster than I think, sir.

8 221-02, which we were just looking at --

9 A Yes, I'm there, can you repeat your question.

10 Q Yes. There's no indication of what percentage of the net  
11 trading activity this constituted during the time period,  
12 right?

13 A Correct.

14 Q Now, I'd like to show you what you looked at -- and your  
15 conclusion was -- withdrawn.

16 I'd like to show you what's been marked in evidence  
17 as 221-03.

18 You looked at this, right?

19 A Yes, sir.

20 Q Now, this is the trading activity, I believe you  
21 testified, this showed the net trading for the select  
22 individuals during December 17th, 2012 to February 28th, 2013;  
23 is that right, sir?

24 A Yes.

25 Q And during this time period, according to this chart,

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1 Andrew Vaino sold 12,000 shares, right, in December of 2012?

2 A In December 2012, he sold 12,000 shares.

3 Q And in the same month, Tim Pierotti sold 43,900 shares,  
4 right?

5 A Yes.

6 Q So nearly four times as many, correct?

7 A Nearly.

8 Q And in January 2013, Andrew Vaino sold 42,000 shares,  
9 right?

10 A Yes.

11 Q And Tim Pierotti's dropped to 14,500, correct?

12 A Correct.

13 Q And you would have -- sitting here today, you have no  
14 knowledge as to why Tim Pierotti sold nearly 30,000 shares  
15 less that month, correct?

16 A Correct.

17 Q And in February 2013, Mr. Vaino, Andrew Vaino, only sold  
18 13,000 shares, correct?

19 A Yes.

20 Q But Mr. Pierotti sold 73,000 shares, correct?

21 A 73,725 shares, yes.

22 Q So over five times the shares as Mr. Vaino during that  
23 period during that month? Actually closer to six.

24 A Over than five times.

25 Q And you, sitting here today, have no knowledge as to why

LEWIS - CROSS - PITLUCK

1 Mr. Pierotti's share sales jumped almost 60,000 shares that  
2 month, right?

3 A I do not.

4 Q But you weren't asked about those changes during your  
5 direct examination; were you?

6 A No, I was not.

7 Q And, again, you weren't -- this doesn't compare to the  
8 total volumes of shares that were sold, correct?

9 A Correct.

10 Q And isn't it true, Professor Lewis, that in this time  
11 period, there's about -- you said, you testified 226,000  
12 shares sold by these eight individuals?

13 A I'd have to refresh my --

14 Q Sure. Go back to 221-02.

15 A 221-02?

16 Q Yes.

17 A Oh, yes. Now I recall.

18 Q So about 10 percent of the total free-trading shares were  
19 sold during that time period, correct?

20 A Yes.

21 Q And the other 90 percent were not traded at all.

22 A That's correct.

23 Q I'd like to show you -- direct you to 221-10A.

24 (Exhibit published.)

25 This is -- do you have it in front of you?

LEWIS - CROSS - PITLUCK

1 A I do.

2 Q I don't know if we have 10A. It's in evidence, yes, I'm  
3 sorry.

4 A Yes.

5 Q You were shown this on direct examination, right, sir?

6 A Yes.

7 Q And this is a summary of the trades on days following  
8 stock price declines, correct?

9 A Yes.

10 Q And this is the only data that you showed the jury in  
11 which the trades were broken out by day, correct?

12 A I also showed broken out by day for buys and sells on the  
13 same day.

14 Q Okay. And that was 221 -- I think it was 221-09?

15 No, I'm sorry. 221-08.

16 A 08.

17 Q Yes.

18 This isn't all the days, though, right, sir?

19 THE COURT: Which is "this"?

20 Q I'm sorry, 221-10A. I apologize, Your Honor.

21 These are just the days on which there were trades  
22 following the stock price declines, right?

23 A That's correct.

24 Q Now, this is chart is the from December 17th, 2012 to  
25 September 19th, 2014, correct?

LEWIS - CROSS - PITLUCK

1 A Yes.

2 Q And on those days, Andrew Vaino sells on number 2 through  
3 number 16, right?

4 A Yes.

5 Q Those are a variety of days between December 21st, 2012  
6 and February 12th, 2013, correct?

7 A Yes.

8 Q And, in fact, from that time period, the only other  
9 person who sells -- the only other two people who sell any  
10 shares on those daily trades are Mr. Biestek and Mr. Mulleady,  
11 correct?

12 A Correct.

13 Q Mr. Fernandez doesn't sell any shares, right?

14 A Right?

15 Q Mr. Sullivan doesn't sell any shares, right?

16 A Right.

17 Q Mr. Tilles doesn't sell any shares, right?

18 A Yes.

19 Q So Shkreli just buys shares, correct?

20 A Correct.

21 Q And Mr. Pierotti is not on this chart, correct?

22 A That's correct.

23 Q And did you analyze the other days in which trades were  
24 made that did not follow stock price declines?

25 A No.



LEWIS - CROSS - PITLUCK

1 Q So sitting here today, you don't know what the greatest  
2 amount of shares that Andrew Vaino sold on a given day between  
3 December and February of 2013?

4 A That's correct.

5 Q According to this chart, he never sold more than 4,000  
6 share in a single day, correct?

7 A Correct.

8 Q And you don't have any charts in here that showed how --  
9 or you weren't shown any charts on direct examination where  
10 Mr. Pierotti's daily trading was disclosed, correct?

11 A Correct.

12 Q You don't have any charts you can show the jury  
13 demonstrating when Mr. Pierotti sold shares on each individual  
14 day, correct?

15 A Correct.

16 Q Do you have any knowledge of that, sir?

17 A No, sir.

18 Q So you don't know whether Tim Pierotti sold 19,200 shares  
19 on December 27th, 2012?

20 A I do not.

21 Q You don't know whether Tim Pierotti sold 24,700 shares on  
22 December 28th, 2012?

23 A No.

24 Q So you don't know on just those days he sold more than  
25 44,000 shares, correct? Just those two days.

LEWIS - CROSS - PITLUCK

1 A What are you asking me?

2 Q I'm asking if you know between those two days that  
3 Mr. Pierotti sold more than 44,000 shares in December of 2012.

4 MS. DENERSTEIN: Objection. That's answered. He  
5 didn't know.

6 THE COURT: I don't know if it was answered.

7 A I don't know about trading on particular days for  
8 Mr. Pierotti.

9 Q It didn't seem that important to your analysis, sir?

10 A Not to this analysis.

11 Q I'd like to -- Judge, I'm just cognizant of the time  
12 so...

13 THE COURT: Okay.

14 Q I'd like to direct your attention to Government  
15 Exhibit 221 -- I'm sorry, force of habit -- Defense Exhibit  
16 221-06, which you were shown on direct examination, correct?

17 A Correct.

18 Q And this was your individual monthly volume chart, right?

19 A That's correct.

20 Q You directed the preparation of this chart?

21 A Yes.

22 Q And confirmed that it's accurate?

23 A I did.

24 Q Now, looking at December of 2012, that's the first row  
25 there, right, sir?

LEWIS - CROSS - PITLUCK

1 A Yes.

2 Q And the total net volume, where the box is around it,  
3 that's the total net volume sold for the seven individuals or  
4 entities, correct?

5 A Yes.

6 Q That's 12,200 shares, correct?

7 A Correct.

8 Q So those seven individuals in that month, between  
9 December 17th and December 31st, sold 12,200 shares, correct?

10 A Correct.

11 Q And that would constitute less than one half of 1 percent  
12 for the total free-trading shares, right?

13 A I don't know.

14 Q Well, 12,200 out of 2.5 million, Professor Lewis?

15 A If I could do the math, but I'm willing to take your word  
16 if that's the correct number.

17 Q About one half of 1 percent?

18 A Yes.

19 Q But Mr. Pierotti sold -- it's in the column just to the  
20 right -- sold 43,900 shares, right?

21 A Yes.

22 Q It's nearly four times as much as the whole group to the  
23 left, correct?

24 A Correct.

25 Q And when you add in that, you get your 56,100 shares,

LEWIS - CROSS - PITLUCK

1 right?

2 A Yes.

3 Q And that's roughly 2 percent of all the shares traded,  
4 correct?

5 A Yes.

6 Q All the free-trading shares?

7 A Uh-huh.

8 Q And that's important to your analysis, right, sir?

9 A Yes.

10 Q Now, same thing in February, 53,800 shares were traded by  
11 the seven individuals. I'm not to go through them all but  
12 we'll say the select individuals minus Mr. Pierotti; is that  
13 fair?

14 A Yes.

15 Q And that's about 2 percent of the free-trading shares of  
16 the stock, right?

17 A Uh-huh. Yes.

18 Q So it's accurate to say, yes or no, Professor Lewis, that  
19 in that month, only 2 percent of the free-trading shares were  
20 traded by these individuals? In January of 2013?

21 A That would be the net trading volume but, yes.

22 Q The net trading volume. And, again, your testimony is --  
23 and with Mr. Pierotti it's 68,300, right?

24 A Yes.

25 Q That's about a little under 3 percent of all the shares

LEWIS - CROSS - PITLUCK

1 traded, of all the free-trading shares?

2 A Yes.

3 Q And your testimony on direct examination was that they  
4 owned 2 million of the 2.5 million shares.

5 A Yes.

6 Q So of the 2 million shares that they owned, they only  
7 traded 68,300.

8 A Correct. Net.

9 Q Net, right. But I think you -- withdrawn.

10 So there's no analysis that you had showed to the  
11 jury about -- other than what we just walked through about how  
12 the total trading of these individuals compared to the total  
13 trading of Retrophin shares.

14 A That's correct.

15 Q And you would agree with me, would you not,  
16 Professor Lewis, that the -- withdrawn.

17 Your Honor, can I have a moment, please?

18 THE JURY: Yes.

19 (Pause.)

20 Q Sorry, Professor Lewis, one final set of questions.

21 You testified on cross-examination a little while  
22 ago that you had served as a summary witness in a prior case,  
23 correct?

24 A Correct.

25 Q And that was while you were employed at the SEC or the

LEWIS - CROSS - PITLUCK

1 Securities and Exchange Commission?

2 A Yes.

3 Q And I think you testified, I don't want to rehash, but  
4 that you were there to provide summary data, correct?

5 A Yes.

6 Q And that was a market manipulation case, sir?

7 A I don't remember.

8 Q Can I show you something that might refresh your  
9 recollection?

10 A Yes.

11 Q I will show you Government Exhibit 1336 for  
12 identification.

13 Does the Court have one, Your Honor?

14 THE COURT: I should, if it's in this binder.

15 MR. PITLUCK: It's behind Tab 36.

16 Q Just take a look at that and let me know if that  
17 refreshes your recollection as to what kind of case it was?

18 A I've reviewed this.

19 Q Does that refresh your recollection as to what kind of  
20 case you testified in?

21 A Not really, but go ahead.

22 Q Okay. Do you remember testifying in a case United States  
23 versus Batian, et al.?

24 A I remember the name "Batian."

25 Q Okay. And is that a press release --

LEWIS - CROSS - PITLUCK

1 THE COURT: Sorry, you need to speak so we can hear  
2 you. And she made an objection.

3 MR. PITLUCK: I'm sorry, Judge.

4 THE COURT: So do you want to reframe the question  
5 because I don't think the court reporter heard the entire  
6 question.

7 Q I think the question I asked was:

8 Do you remember testifying in the case United States  
9 versus Batian?

10 A I don't know for sure.

11 Q Okay. I'm going to show you something else to refresh  
12 your recollection, Government Exhibit 1330 for identification.

13 Does that refresh your recollection?

14 A This will help me.

15 Q And you testified in United States versus Batian,  
16 correct?

17 A Yes.

18 Q Does it refresh your recollection that it was a market  
19 manipulation case?

20 A Yes.

21 Q Okay. And you were a summary witness in that case,  
22 right?

23 A Yes, I was.

24 Q And in that case, you testified related to the price and  
25 volume of a particular stock, right?

LEWIS - CROSS - PITLUCK

1 A I don't remember --

2 Q Okay.

3 A -- the details or the nature of my testimony.

4 Q Let's see if I can refresh your recollection, sir.

5 Can you go to transcript page 50 of that exhibit.

6 A Yes, I'm here.

7 Q You see line 20, and you can just read that to yourself,  
8 through line 8 on page 51.

9 THE COURT: Line 20 through 8? Oh, I see.

10 MR. PITLUCK: Yeah, it goes over two pages. I  
11 apologize.

12 THE COURT: Thank you.

13 (Whereupon, the witness is reviewing the document.)

14 Q Okay. Does that refresh your recollection you testified  
15 to price and volume data during this deposition?

16 A I see that I did.

17 Q And that you used Bloomberg price and volume data for the  
18 summary exhibit in your deposition?

19 A Yes.

20 MR. PITLUCK: Your Honor, I have nothing further at  
21 this time.

22 THE COURT: Ms. Denerstein.

23 MS. DENERSTEIN: Mr. Pitluck said "United States  
24 versus Batian," and this says the "Securities and Exchange  
25 Commission versus Batian," just for purposes of the record.



LEWIS - REDIRECT - DENERSTEIN

1 MR. PITLUCK: That's correct, I apologize. It's the  
2 Securities and Exchange Commission versus Batian.

3 THE COURT: All right.

4 And you agree with that, sir, the appropriate name  
5 of the case in which you testified, correct, sir?

6 THE WITNESS: Yes.

7 THE COURT: All right. Thank you.

8 REDIRECT EXAMINATION

9 MS. DENERSTEIN:

10 Q Okay, just referring you to Defense Exhibit 221-09.

11 A Yes.

12 THE COURT: Could you get close to the mic,  
13 Ms. Denerstein?

14 MS. DENERSTEIN: Yes. Sorry.

15 Q Directing your attention to Defense Exhibit 221-009.  
16 Does it change your conclusion because the blue sheet data  
17 shows a price of 5 for January 10th --

18 MR. PITLUCK: Objection.

19 Q -- would that have made any difference to your opinion?

20 THE COURT: Sustained. Please rephrase.

21 Q What impact did the blue sheet data stating that  
22 January 10th was \$5 have on your opinion?

23 A It wouldn't have affected the analysis at all. There was  
24 still a stock price drop over the period of 1/10 to 1/11. It  
25 would have been from \$5 to \$4 instead of as recorded here, 5,

LEWIS - REDIRECT - DENERSTEIN

1 10 and 4. But we would have had the exact same exhibit  
2 without any changes.

3 Q Does the percentage of trading volume by the select  
4 accounts affect your conclusion?

5 A No, it does not.

6 Q And why not?

7 A Because I was examining evidence for a coordinated  
8 attempt by the select individuals to cause stock prices to  
9 increase or remain stable. And the fact that they were net  
10 sellers over that period is, in my view, inconsistent with  
11 that.

12 Q Does the failure to trade indicate stock manipulation?

13 A No, it does not.

14 Q Referring you to Defense Exhibit 221-36.

15 (Exhibit published.)

16 A Okay, I'm there.

17 Q Individual net month -- individual monthly net volume.

18 Mr. Pitluck spent some time talking about January,  
19 correct?

20 A He did.

21 Q He said the net volume is 68,000?

22 A Yes.

23 Q Mr. Pierotti owned more stock than Mr. Vaino; isn't that  
24 correct? If you go to Government Exhibit 990.

25 A Yes, Mr. Pierotti owned more stock than Mr. Vaino.

LEWIS - REDIRECT - DENERSTEIN

1 Q And Mr. Pitluck was simply focusing on one month,  
2 January 2013, correct?

3 MR. PITLUCK: Objection, Your Honor.

4 THE COURT: Sustained.

5 Q Mr. Pitluck asked you questions about net volume in  
6 January 2013, correct?

7 A He did.

8 Q And when did Retrophin go public?

9 A It went public in --

10 Q On an exchange.

11 A On an exchange in -- I would have to look at the --

12 Q Let me rephrase.

13 If I may, I withdraw my question, Your Honor.

14 On December 17, 2012, according to Government  
15 Exhibit 990, is that when the shares of -- freely-trading  
16 shares of stock became available?

17 A They became available and they were traded on the OTC  
18 bulletin board.

19 Q So Mr. Pitluck is asking you to focus on January 2013,  
20 which is days after the company first began trading on an  
21 exchange, correct?

22 MR. PITLUCK: Objection to form.

23 THE COURT: Sustained.

24 You know what, I'll overruled the objection, just in  
25 the interest of time is ticking.

PROCEEDINGS

1 MS. DENERSTEIN: You can answer the question.

2 A Could you restate the question.

3 Q Mr. Pitluck was focused on the net volume in January of  
4 2013, correct?

5 A Correct.

6 Q Retrophin stock only began trading on the  
7 over-the-counter bulletin board on December 17th, 2012; isn't  
8 that correct?

9 A Correct.

10 Q You analyzed an entire period of time, correct?

11 A Correct.

12 MS. DENERSTEIN: No further questions.

13 THE COURT: Anything else, Mr. Pitluck?

14 MR. PITLUCK: No recross.

15 THE COURT: All right, sir, thank you. You're  
16 excused.

17 And the jury is also excused for the evening. Thank  
18 you very much for your attention.

19 We will see you tomorrow morning at 9, and we will  
20 dismiss you as 2, as promised. Maybe think about a shorter  
21 lunch, if that's all right.

22 Okay, thank you. Have a good night. Thank you for  
23 your service. Please don't discuss or think about the case  
24 until tomorrow morning when you're back.

25 (Jury exits the courtroom.)

PROCEEDINGS

1 THE COURT: We've issued an order that the defense  
2 should submit any briefing they wish to make by tonight at  
3 7:00 on the issues of consciousness of innocence and the  
4 issues we talked about yesterday because we hadn't received it  
5 and we need to get it ASAP because it affects the charges.

6 Is there anything else we need to address before we  
7 adjourn? No?

8 MS. SMITH: It's our understanding that  
9 Mr. Rosenwald will be tomorrow morning. And then we were just  
10 wondering who the witness will be after Mr. Rosenwald?

11 THE COURT: Can we confirm the next two witnesses  
12 for tomorrow and that we'll get through two.

13 MR. CHAN: Mr. Cotton.

14 We don't think we will finish those two.

15 THE COURT: All right. Thank you.

16 \* \* \* \* \*

17 (Proceedings adjourned at 5:30 p.m. to resume on  
18 December 8, 2017 at 9:00 a.m.)  
19  
20  
21  
22  
23  
24  
25

## 1 I N D E X

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11 \* \* \* \*

## 12 I N D E X

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**MR. KESSLER: [27]** 8310/17 8311/3 8311/12 8311/21 8313/5 8313/22 8314/3 8315/25 8320/3 8320/10 8321/11 8321/23 8321/25 8322/13 8323/9 8323/25 8324/6 8357/12 8357/15 8361/11 8361/14 8508/10 8508/23 8549/21 8550/5 8552/18 8554/1  
**MR. MASTRO: [15]** 8354/2 8453/11 8453/15 8453/18 8454/12 8508/3 8508/12 8508/19 8509/2 8509/7 8509/16 8509/21 8510/1 8510/7 8510/13  
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**-- can [1]** 8477/7  
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<p><b>5</b></p> <p>5 percent [1] 8527/24</p> <p>5,000 [2] 8523/23 8524/1</p> <p>5,531,401 [1] 8479/10</p> <p>5,838,837 [1] 8476/5</p> <p>5.1 [1] 8537/2</p> <p>50 [6] 8466/21 8523/20 8523/21 8546/10 8547/13 8578/5</p> <p>500 [2] 8521/3 8522/25</p> <p>500,000 [3] 8487/22 8561/24 8562/3</p> <p>51 [1] 8578/8</p> <p>52 [1] 8478/2</p> <p>53,800 [1] 8574/10</p>
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<p><b>5</b>  <b>55,000</b> [1] 8496/4  <b>56,100</b> [2] 8501/4 8573/25  <b>5:30</b> [1] 8583/17</p>	<p><b>A</b>  <b>a.m</b> [5] 8307/5 8324/13 8403/22 8433/14 8583/18  <b>abeyance</b> [2] 8431/10 8433/18  <b>ability</b> [6] 8310/10 8360/9 8368/20 8376/12 8482/6 8562/6  <b>able</b> [18] 8340/7 8358/1 8360/2 8378/13 8400/11 8404/10 8404/15 8406/23 8408/6 8416/8 8419/6 8453/22 8461/9 8518/4 8521/8 8542/17 8545/1 8555/22  <b>absent</b> [1] 8453/17  <b>absolutely</b> [3] 8342/2 8453/11 8551/1  <b>abstract</b> [1] 8312/5  <b>academia</b> [5] 8461/22 8537/25 8538/4 8539/11 8539/17  <b>academic</b> [5] 8460/3 8460/10 8462/14 8462/17 8467/6  <b>acceptable</b> [1] 8431/12  <b>accepted</b> [4] 8339/2 8544/8 8544/12 8553/6  <b>access</b> [1] 8336/12  <b>accommodate</b> [1] 8404/14  <b>accompany</b> [1] 8467/1  <b>accomplishment</b> [2] 8382/21 8384/23  <b>accomplishments</b> [1] 8460/10  <b>according</b> [16] 8480/2 8487/12 8504/7 8531/9 8546/21 8547/5 8547/10 8547/11 8547/12 8559/1 8562/8 8565/24 8565/25 8566/25 8571/5 8581/14  <b>account</b> [14] 8322/10 8488/9 8488/9 8488/21 8491/5 8506/22 8508/8 8508/13 8508/15 8509/13 8511/9 8512/24 8513/19 8563/9  <b>accountant's</b> [1] 8391/16  <b>accountants</b> [9] 8388/3 8388/7 8388/9 8388/13 8388/22 8389/9 8390/1 8391/6 8391/9  <b>accounting</b> [2] 8312/2 8459/7  <b>accounts</b> [11] 8490/9 8491/7 8506/5 8511/24 8512/22 8518/3 8531/24 8532/10 8541/11 8554/13 8580/4  <b>accuracy</b> [20] 8534/21 8534/22 8548/5 8549/9 8549/16 8549/20 8550/2 8550/5 8550/6 8550/7 8551/3 8551/5 8551/12 8557/13 8557/14 8557/22 8558/9 8559/2 8560/3 8560/9  <b>accurate</b> [13] 8423/3 8424/12 8492/1 8537/9 8538/21 8543/12 8544/10 8558/5 8560/6 8561/17 8565/1 8572/22 8574/18  <b>ACG</b> [1] 8377/20  <b>acquire</b> [1] 8470/8  <b>acquired</b> [1] 8504/20  <b>Acquisition</b> [1] 8475/11  <b>Acquisitions</b> [1] 8376/25  <b>acronym</b> [1] 8538/10  <b>act</b> [6] 8377/2 8377/16 8415/5 8415/6 8478/23 8478/25  <b>acting</b> [27] 8307/13 8315/5 8429/15 8429/21 8429/24 8430/6 8430/7 8430/8 8437/15 8437/18 8437/21 8437/23 8437/25 8438/1 8438/2 8438/11 8438/13 8438/17 8438/25 8439/5 8439/7 8439/10 8446/10 8446/14 8446/17 8446/18 8446/19  <b>action</b> [1] 8309/20  <b>actions</b> [2] 8416/11 8416/11  <b>active</b> [4] 8368/5 8370/4 8378/3 8470/9  <b>activist</b> [1] 8370/10  <b>activities</b> [4] 8338/14 8467/15 8499/15 8500/3  <b>activity</b> [60] 8467/13 8481/23 8483/23 8490/8 8491/24 8492/16 8493/24 8494/1 8496/23 8497/11 8498/9 8498/18 8498/23 8499/10 8499/19 8500/24 8500/25 8502/4 8502/18 8502/19 8505/11 8505/15 8505/16 8505/16 8506/20 8506/22 8508/8 8508/14 8508/15 8509/9 8509/13 8509/19 8511/10 8513/3 8513/15 8513/17 8514/4 8514/15 8515/3 8515/12 8515/20 8516/14 8516/21 8516/24 8518/5 8522/14 8528/18 8530/4 8532/7 8532/15 8532/16 8532/17 8532/19 8561/5 8562/22 8563/8 8564/9 8564/10 8566/11 8566/20  <b>actual</b> [9] 8352/8 8355/23 8454/17 8454/18</p>	<p>8503/14 8512/23 8555/11 8555/23 8565/5  <b>adamant</b> [1] 8344/7  <b>add</b> [3] 8401/16 8428/12 8573/25  <b>added</b> [1] 8493/18  <b>addition</b> [4] 8371/4 8393/11 8442/17 8464/2  <b>additional</b> [10] 8308/3 8308/7 8326/24 8368/6 8369/2 8404/24 8426/8 8426/20 8432/17 8496/6  <b>address</b> [3] 8324/6 8467/12 8583/6  <b>addresses</b> [1] 8467/14  <b>adds</b> [3] 8493/1 8529/3 8529/4  <b>adjourn</b> [1] 8583/7  <b>adjourned</b> [1] 8583/17  <b>administration</b> [1] 8465/1  <b>administrative</b> [1] 8465/22  <b>admissible</b> [9] 8338/12 8339/6 8340/25 8355/20 8402/3 8417/18 8418/13 8453/5 8453/5  <b>admission</b> [3] 8336/21 8337/18 8557/4  <b>admit</b> [2] 8427/14 8551/16  <b>admits</b> [1] 8557/5  <b>admitted</b> [5] 8337/1 8354/23 8358/1 8414/16 8421/12  <b>admitting</b> [1] 8406/5  <b>adopted</b> [2] 8377/16 8553/6  <b>advance</b> [1] 8519/9  <b>advanced</b> [1] 8460/21  <b>advantage</b> [1] 8355/14  <b>adverse</b> [3] 8310/14 8311/3 8321/7  <b>adversely</b> [1] 8338/15  <b>advice</b> [12] 8333/16 8335/15 8335/16 8367/20 8391/16 8419/10 8421/3 8421/3 8427/6 8429/5 8439/14 8439/16  <b>advised</b> [7] 8334/25 8367/8 8371/8 8374/15 8386/11 8386/24 8387/2  <b>advising</b> [2] 8407/7 8463/17  <b>advisor</b> [1] 8463/22  <b>Advisors</b> [1] 8463/22  <b>affect</b> [4] 8377/3 8390/7 8466/9 8580/4  <b>affected</b> [3] 8338/15 8467/21 8579/23  <b>affects</b> [1] 8583/5  <b>affiliate</b> [3] 8448/1 8448/10 8448/20  <b>affiliates</b> [3] 8326/20 8327/1 8327/1  <b>affiliation</b> [1] 8448/5  <b>affirmatively</b> [1] 8407/22  <b>affirmed</b> [2] 8324/20 8458/23  <b>affirming</b> [1] 8336/24  <b>afford</b> [1] 8477/12  <b>afternoon</b> [6] 8434/6 8434/7 8456/18 8507/23 8533/2 8533/3  <b>agent</b> [3] 8339/7 8339/8 8417/14  <b>agent's</b> [1] 8417/16  <b>agents</b> [2] 8326/22 8338/23  <b>aggregate</b> [10] 8478/19 8478/21 8479/4 8479/5 8479/11 8483/23 8493/3 8500/12 8502/7 8502/13  <b>aggregating</b> [1] 8529/1  <b>ago</b> [4] 8558/4 8559/11 8564/13 8575/22  <b>agree</b> [14] 8314/1 8314/4 8390/20 8390/24 8391/19 8402/9 8409/8 8435/23 8437/21 8539/16 8544/7 8546/16 8575/15 8579/4  <b>agreed</b> [5] 8311/13 8343/3 8393/10 8393/23 8393/25  <b>agreeing</b> [1] 8313/21  <b>agreement</b> [15] 8308/22 8325/7 8327/6 8327/9 8327/16 8328/9 8407/13 8407/14 8407/15 8409/22 8415/22 8441/3 8441/5 8475/8 8475/9  <b>agreements</b> [31] 8309/9 8309/9 8309/13 8309/17 8311/21 8313/22 8314/3 8324/25 8328/1 8336/2 8340/18 8345/6 8358/12 8370/7 8408/8 8408/9 8410/20 8412/8 8413/4 8414/3 8414/16 8416/6 8420/20 8427/17 8428/1 8428/9 8428/16 8428/25 8429/1 8429/4 8429/7  <b>agrees</b> [1] 8362/16  <b>ahead</b> [3] 8413/19 8488/23 8576/21  <b>aided</b> [1] 8307/25  <b>al</b> [1] 8576/23  <b>Alan</b> [1] 8324/8</p>
<p><b>6</b>  <b>6,000</b> [1] 8524/9  <b>60</b> [1] 8563/8  <b>60 percent</b> [1] 8563/16  <b>60,000</b> [1] 8568/1  <b>600</b> [2] 8500/21 8517/15  <b>61</b> [2] 8523/16 8523/17  <b>64,962</b> [1] 8365/23  <b>647</b> [1] 8546/8  <b>653,374</b> [3] 8501/19 8502/16 8502/16  <b>653374</b> [1] 8501/16  <b>66</b> [2] 8478/15 8488/5  <b>68,000</b> [1] 8580/21  <b>68,300</b> [2] 8574/23 8575/7  <b>69.87 percent</b> [1] 8565/17  <b>6:30</b> [2] 8456/24 8456/25</p>		
<p><b>7</b>  <b>7,100</b> [2] 8495/19 8499/6  <b>70</b> [3] 8519/4 8533/14 8565/21  <b>70 percent</b> [1] 8565/21  <b>70-plus</b> [1] 8362/22  <b>70-year-plus</b> [1] 8432/7  <b>718-613-2268</b> [1] 8307/22  <b>727</b> [1] 8338/21  <b>73,000</b> [1] 8567/20  <b>73,725</b> [1] 8567/21  <b>747</b> [1] 8332/10  <b>75</b> [1] 8475/22  <b>7:00</b> [1] 8583/3</p>		
<p><b>8</b>  <b>8,000</b> [1] 8523/24  <b>8,338,837</b> [1] 8476/4  <b>8-K</b> [9] 8474/11 8474/18 8474/19 8474/23 8475/3 8475/4 8477/3 8540/20 8561/14  <b>8-Ks</b> [1] 8474/21  <b>80</b> [3] 8475/22 8487/10 8488/5  <b>80,000</b> [1] 8563/15  <b>801</b> [1] 8555/14  <b>806</b> [3] 8338/4 8552/19 8556/2  <b>8185</b> [1] 8443/8  <b>8195</b> [5] 8396/18 8397/24 8398/5 8399/17 8423/3  <b>8196</b> [2] 8398/25 8423/18  <b>8270</b> [2] 8428/14 8428/23  <b>8273</b> [2] 8324/25 8327/7  <b>85</b> [1] 8480/10</p>		
<p><b>9</b>  <b>9,137,787</b> [1] 8479/4  <b>9,500</b> [1] 8523/25  <b>9.B</b> [1] 8353/11  <b>9/30/2014</b> [1] 8532/1  <b>90</b> [1] 8372/12  <b>90 percent</b> [1] 8568/21  <b>91,372</b> [1] 8496/12  <b>916</b> [1] 8336/19  <b>950</b> [3] 8490/17 8545/17 8559/25  <b>951</b> [1] 8490/17  <b>952</b> [1] 8490/17  <b>953</b> [1] 8490/17  <b>954</b> [1] 8490/17  <b>955</b> [5] 8530/6 8530/14 8543/25 8545/3 8559/22  <b>960</b> [1] 8474/7  <b>990</b> [4] 8486/24 8504/4 8580/24 8581/15  <b>992</b> [1] 8482/24  <b>995</b> [3] 8507/19 8511/13 8530/13  <b>9:00</b> [2] 8307/5 8583/18  <b>9:35</b> [1] 8324/13  <b>9th</b> [1] 8526/16</p>		

<p><b>A</b></p> <p><b>Alexander</b> [3] 8364/12 8364/20 8365/6</p> <p><b>ALIXANDRA</b> [1] 8307/15</p> <p><b>allegation</b> [1] 8337/11</p> <p><b>alleged</b> [1] 8418/2</p> <p><b>allow</b> [12] 8321/10 8323/21 8337/21 8356/4 8362/18 8409/25 8426/23 8441/19 8469/14 8485/11 8551/22 8560/5</p> <p><b>allowed</b> [12] 8311/17 8321/21 8333/3 8333/15 8339/7 8342/18 8406/22 8408/17 8410/12 8410/18 8417/19 8555/13</p> <p><b>allows</b> [2] 8356/3 8552/9</p> <p><b>almost</b> [6] 8393/23 8455/21 8460/25 8469/16 8472/15 8568/1</p> <p><b>alphabetically</b> [1] 8364/11</p> <p><b>altering</b> [1] 8508/25</p> <p><b>alternative</b> [1] 8470/6</p> <p><b>amazing</b> [3] 8371/17 8379/17 8380/13</p> <p><b>ambush</b> [2] 8341/15 8341/17</p> <p><b>amend</b> [1] 8429/4</p> <p><b>AMERICA</b> [1] 8307/3</p> <p><b>amorphous</b> [1] 8416/12</p> <p><b>Amos</b> [1] 8461/14</p> <p><b>amount</b> [9] 8371/17 8463/14 8471/8 8483/6 8486/6 8493/15 8494/1 8503/13 8571/2</p> <p><b>analogize</b> [2] 8465/24 8472/16</p> <p><b>analyses</b> [4] 8465/3 8465/13 8465/21 8546/1</p> <p><b>analysis</b> [46] 8463/4 8464/8 8464/18 8464/20 8464/21 8465/13 8466/19 8467/1 8467/4 8490/14 8491/23 8492/2 8494/15 8495/8 8495/21 8496/9 8496/15 8497/21 8497/22 8497/25 8505/1 8513/20 8515/23 8516/21 8518/2 8519/22 8519/25 8521/22 8526/9 8527/2 8532/3 8538/23 8539/23 8553/23 8553/25 8562/8 8562/11 8564/3 8564/7 8565/6 8565/11 8572/9 8572/10 8574/8 8575/10 8579/23</p> <p><b>analyst</b> [1] 8468/6</p> <p><b>analysts</b> [7] 8462/7 8462/7 8462/8 8462/9 8462/17 8467/25 8520/14</p> <p><b>analytic</b> [1] 8464/22</p> <p><b>analyze</b> [4] 8490/8 8491/7 8522/14 8570/23</p> <p><b>analyzed</b> [3] 8491/3 8497/6 8582/10</p> <p><b>analyzing</b> [3] 8467/3 8468/22 8469/2</p> <p><b>ancillary</b> [1] 8318/19</p> <p><b>Andrew</b> [24] 8486/14 8487/18 8488/2 8490/11 8499/10 8500/22 8506/14 8507/4 8507/5 8507/8 8512/1 8515/7 8517/15 8522/25 8526/11 8528/24 8541/21 8563/22 8563/23 8567/1 8567/8 8567/17 8570/2 8571/2</p> <p><b>announcements</b> [1] 8467/23</p> <p><b>announcing</b> [2] 8480/16 8510/12</p> <p><b>annual</b> [1] 8520/13</p> <p><b>answer</b> [36] 8347/2 8349/9 8382/20 8384/17 8385/24 8391/17 8397/24 8398/5 8402/21 8403/5 8403/9 8403/19 8411/21 8416/3 8422/18 8422/23 8423/5 8423/8 8423/16 8423/22 8424/2 8429/14 8446/21 8452/19 8453/5 8488/23 8489/3 8503/20 8508/23 8510/3 8510/5 8510/6 8510/9 8550/7 8557/19 8582/1</p> <p><b>answered</b> [9] 8337/23 8359/2 8448/6 8448/12 8448/22 8508/16 8560/18 8572/4 8572/6</p> <p><b>answers</b> [10] 8396/21 8398/13 8400/2 8403/15 8403/17 8403/18 8411/16 8423/12 8449/13 8453/23</p> <p><b>anticipate</b> [5] 8427/3 8427/19 8427/19 8429/2 8430/5</p> <p><b>anticipated</b> [2] 8331/14 8371/8</p> <p><b>antitrust</b> [3] 8385/7 8386/4 8386/7</p> <p><b>anyway</b> [1] 8319/24</p> <p><b>apart</b> [1] 8331/5</p> <p><b>apartment</b> [2] 8338/8 8340/20</p> <p><b>apologies</b> [1] 8530/15</p> <p><b>apologize</b> [7] 8332/6 8333/11 8546/9 8566/6 8569/20 8578/11 8579/1</p> <p><b>App'x</b> [1] 8336/19</p> <p><b>appealed</b> [1] 8337/10</p>	<p><b>appealing</b> [2] 8337/18 8337/20 8337/21 8376/21 8380/10</p> <p><b>APPEARANCES</b> [1] 8307/11</p> <p><b>appeared</b> [1] 8377/10</p> <p><b>appellant</b> [4] 8336/20 8337/13 8338/9 8338/11</p> <p><b>appellant's</b> [4] 8337/15 8338/7 8338/13 8338/17</p> <p><b>appellant-defendant</b> [1] 8336/20</p> <p><b>apples</b> [1] 8455/13</p> <p><b>applications</b> [1] 8467/8</p> <p><b>apply</b> [1] 8438/6</p> <p><b>appreciate</b> [4] 8341/2 8421/21 8421/23 8422/4</p> <p><b>approach</b> [3] 8380/18 8421/16 8452/12</p> <p><b>approached</b> [1] 8338/23</p> <p><b>appropriate</b> [13] 8308/20 8308/24 8309/21 8317/2 8334/25 8342/22 8343/7 8358/3 8358/5 8408/24 8455/12 8551/22 8579/4</p> <p><b>appropriately</b> [1] 8550/20</p> <p><b>approval</b> [1] 8481/15</p> <p><b>approved</b> [1] 8552/13</p> <p><b>April</b> [9] 8392/20 8392/21 8392/24 8434/9 8434/16 8498/15 8499/13 8499/25 8523/21</p> <p><b>April 2013</b> [1] 8498/15</p> <p><b>April 2014</b> [1] 8499/25</p> <p><b>April 2015</b> [2] 8434/9 8434/16</p> <p><b>April 4</b> [1] 8523/21</p> <p><b>architect</b> [1] 8465/3</p> <p><b>area</b> [6] 8322/8 8323/3 8371/23 8376/10 8376/14 8462/6</p> <p><b>areas</b> [4] 8361/3 8410/10 8462/3 8462/11</p> <p><b>argue</b> [10] 8312/3 8314/18 8315/19 8316/18 8320/13 8334/21 8335/21 8396/17 8419/6 8432/11</p> <p><b>argued</b> [6] 8316/5 8316/18 8316/23 8319/3 8319/17 8335/11</p> <p><b>arguing</b> [6] 8313/7 8314/22 8316/17 8316/20 8334/14 8407/19</p> <p><b>argument</b> [23] 8311/15 8313/6 8313/15 8313/24 8314/24 8316/11 8316/22 8334/15 8336/3 8339/2 8339/10 8406/15 8406/21 8409/11 8418/8 8420/22 8421/4 8421/8 8421/10 8421/17 8426/5 8432/9 8451/18</p> <p><b>arguments</b> [8] 8318/9 8320/19 8320/20 8320/20 8320/23 8426/8 8426/10 8431/2</p> <p><b>arises</b> [1] 8357/13</p> <p><b>arrest</b> [1] 8338/24</p> <p><b>arrow</b> [4] 8484/18 8485/3 8485/25 8486/1</p> <p><b>arrows</b> [1] 8485/19</p> <p><b>article</b> [7] 8377/9 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8378/5 8378/18 8383/6 8386/8 8387/6 8387/8 8417/6 8417/7 8474/7 8476/10 8478/2 8480/10 8482/23 8486/24 8490/18 8491/9 8491/10 8491/11 8492/5 8492/5 8492/9 8492/11 8492/13 8492/16 8492/18 8496/18 8500/9 8501/7 8501/9 8501/10 8501/12 8503/16 8503/19 8503/21 8504/4 8504/6 8504/14 8504/22 8505/3 8505/5 8505/6 8505/8 8505/19 8507/19 8507/21 8509/5 8511/13 8511/15 8514/13 8514/22 8514/24 8515/4 8516/19 8516/21 8517/2 8517/5 8517/6 8517/10 8521/19 8522/2 8522/5 8522/7 8525/1 8525/11 8526/1 8527/5 8527/12 8527/14 8527/15 8528/22 8530/6 8530/12 8536/9 8536/9 8536/11 8536/12 8536/15 8536/16 8537/1 8537/2 8543/24 8545/3 8545/17 8546/21 8547/4 8547/11 8547/16 8548/8 8549/20 8551/2 8553/22 8554/15 8557/4 8557/5 8557/6 8559/22 8559/25 8560/24 8561/1 8564/14 8564/16 8564/18 8566/6 8568/24 8572/15 8572/15 8576/11 8577/12 8578/5 8578/18 8579/10 8579/15 8580/1 8580/14 8580/15 8580/24 8581/15  <b>Exhibit 121-7</b> [1] 8386/8  <b>Exhibit 121-9</b> [1] 8387/8  <b>Exhibit 13</b> [1] 8564/14  <b>Exhibit 1325</b> [2] 8564/16 8564/18  <b>Exhibit 1330</b> [1] 8577/12  <b>Exhibit 1336</b> [1] 8576/11  <b>Exhibit 2104</b> [1] 8496/18  <b>Exhibit 221</b> [1] 8572/15  <b>Exhibit 221-02</b> [2] 8560/24 8566/6  <b>Exhibit 221-04</b> [1] 8491/9  <b>Exhibit 221-05</b> [1] 8491/11  <b>Exhibit 221-06</b> [5] 8500/9 8501/7 8501/9 8504/14 8505/19</p>
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<p><b>E</b></p> <p><b>Exhibit 221-07 [3]</b> 8504/22 8505/3 8505/5</p> <p><b>Exhibit 221-09 [1]</b> 8579/10</p> <p><b>Exhibit 950 [1]</b> 8559/25</p> <p><b>Exhibit 955 [1]</b> 8559/22</p> <p><b>Exhibit 990 [3]</b> 8504/4 8580/24 8581/15</p> <p><b>Exhibit 995 [1]</b> 8507/19</p> <p><b>exhibits [15]</b> 8417/23 8490/16 8491/18 8491/21 8491/23 8492/8 8497/6 8497/12 8503/11 8542/23 8545/22 8545/23 8560/21 8564/8 8584/12</p> <p><b>Exhibits 221-04 [1]</b> 8492/8</p> <p><b>existence [1]</b> 8484/7</p> <p><b>existent [1]</b> 8311/15</p> <p><b>exits [4]</b> 8395/10 8456/13 8508/2 8582/25</p> <p><b>expand [3]</b> 8366/23 8370/16 8374/21</p> <p><b>expanded [1]</b> 8372/25</p> <p><b>expanding [1]</b> 8376/9</p> <p><b>expect [19]</b> 8428/22 8481/23 8482/2 8488/7 8488/20 8488/25 8489/10 8490/2 8490/3 8490/4 8513/21 8514/10 8521/12 8521/14 8521/16 8529/14 8529/25 8530/2 8532/18</p> <p><b>expense [2]</b> 8321/3 8428/4</p> <p><b>expensive [1]</b> 8415/19</p> <p><b>experience [8]</b> 8310/2 8369/16 8372/7 8441/19 8467/2 8473/15 8473/15 8545/8</p> <p><b>experienced [2]</b> 8413/22 8526/13</p> <p><b>expert [22]</b> 8308/4 8312/7 8312/10 8315/9 8316/2 8316/25 8317/16 8317/17 8321/21 8324/5 8331/8 8379/14 8379/17 8383/3 8409/18 8420/16 8468/22 8469/2 8535/6 8550/16 8550/17 8551/25</p> <p><b>expertise [1]</b> 8322/8</p> <p><b>experts [1]</b> 8308/8</p> <p><b>explain [12]</b> 8327/8 8388/12 8390/22 8491/22 8492/15 8500/17 8505/9 8517/13 8522/10 8522/16 8526/5 8527/18</p> <p><b>explained [1]</b> 8337/23</p> <p><b>explaining [5]</b> 8391/15 8391/19 8419/1 8526/6 8528/14</p> <p><b>explanation [1]</b> 8366/1</p> <p><b>exposure [4]</b> 8313/5 8320/9 8321/2 8520/23</p> <p><b>express [1]</b> 8555/18</p> <p><b>extended [1]</b> 8359/20</p> <p><b>extensive [4]</b> 8332/25 8404/23 8408/17 8550/4</p> <p><b>extensively [2]</b> 8408/21 8553/1</p> <p><b>extent [9]</b> 8308/10 8311/14 8311/24 8320/23 8355/5 8404/18 8408/23 8435/23 8481/7</p> <p><b>extraordinarily [1]</b> 8405/17</p> <p><b>extraordinary [4]</b> 8405/24 8407/2 8413/23 8413/24</p> <p><b>extreme [1]</b> 8413/15</p> <p><b>extrinsic [1]</b> 8552/10</p>	<p><b>fairly [3]</b> 8359/8 8360/23 8418/18</p> <p><b>faithless [1]</b> 8404/11</p> <p><b>faith [5]</b> 8310/3 8310/13 8311/18 8312/25 8418/8</p> <p><b>fall [1]</b> 8455/18</p> <p><b>false [1]</b> 8337/11</p> <p><b>familiar [25]</b> 8350/3 8350/7 8355/6 8371/11 8373/20 8373/21 8373/22 8373/25 8375/11 8375/24 8377/4 8377/12 8377/23 8379/4 8379/23 8379/25 8383/16 8383/18 8386/14 8466/2 8474/16 8478/6 8536/7 8545/20 8545/22</p> <p><b>fantastic [1]</b> 8433/10</p> <p><b>far [7]</b> 8408/22 8427/23 8438/10 8438/20 8544/10 8544/11 8547/20</p> <p><b>faster [1]</b> 8566/7</p> <p><b>fault [2]</b> 8319/19 8319/23</p> <p><b>faulting [1]</b> 8344/11</p> <p><b>faulty [1]</b> 8309/8</p> <p><b>favor [2]</b> 8431/13 8453/25</p> <p><b>FBI's [1]</b> 8338/22</p> <p><b>Fearnow [1]</b> 8308/12</p> <p><b>February [55]</b> 8348/19 8350/6 8364/5 8366/15 8371/1 8371/8 8372/17 8372/22 8378/21 8379/9 8381/16 8382/8 8384/1 8386/5 8387/9 8392/24 8479/2 8479/16 8479/18 8480/5 8484/22 8484/22 8484/24 8484/25 8488/16 8488/22 8489/5 8493/11 8493/12 8495/1 8495/24 8496/4 8498/4 8499/24 8511/17 8512/9 8512/9 8512/11 8512/12 8515/16 8516/23 8517/1 8524/5 8530/10 8530/21 8531/4 8531/14 8551/15 8561/6 8565/17 8566/22 8567/17 8570/6 8571/3 8574/10</p> <p><b>February 12th [1]</b> 8570/6</p> <p><b>February 14 [2]</b> 8512/9 8512/12</p> <p><b>February 2013 [4]</b> 8493/11 8496/4 8517/1 8567/17</p> <p><b>February 2014 [2]</b> 8386/5 8495/1</p> <p><b>February 21 [1]</b> 8524/5</p> <p><b>February 28 [8]</b> 8511/17 8512/11 8515/16 8516/23 8530/10 8530/21 8531/4 8531/14</p> <p><b>February 28th [3]</b> 8561/6 8565/17 8566/22</p> <p><b>federal [4]</b> 8385/8 8386/4 8386/6 8454/25</p> <p><b>fees [1]</b> 8447/11</p> <p><b>Felix [2]</b> 8364/13 8365/5</p> <p><b>felt [5]</b> 8359/11 8360/1 8399/7 8423/23 8532/13</p> <p><b>Fernandez [14]</b> 8486/14 8487/15 8488/1 8490/11 8494/9 8494/11 8497/22 8506/9 8513/15 8515/6 8517/17 8541/15 8562/14 8570/13</p> <p><b>Ferruolo [3]</b> 8308/18 8308/19 8324/8</p> <p><b>few [8]</b> 8372/20 8377/18 8401/17 8436/5 8437/14 8455/2 8483/25 8559/10</p> <p><b>fiduciary [1]</b> 8310/7</p> <p><b>field [1]</b> 8462/19</p> <p><b>fifth [1]</b> 8442/18</p> <p><b>fight [1]</b> 8427/21</p> <p><b>figure [3]</b> 8483/22 8497/4 8507/16</p> <p><b>file [10]</b> 8312/19 8341/3 8343/1 8343/2 8343/3 8343/5 8360/22 8412/15 8413/20 8419/23</p> <p><b>filed [10]</b> 8339/13 8339/16 8341/5 8342/21 8360/4 8368/4 8390/4 8398/9 8404/8 8423/9</p> <p><b>filing [5]</b> 8360/20 8360/20 8474/11 8474/19 8475/19</p> <p><b>filings [2]</b> 8469/17 8520/12</p> <p><b>filling [1]</b> 8368/8</p> <p><b>final [7]</b> 8492/25 8493/25 8496/14 8500/1 8529/7 8553/23 8575/20</p> <p><b>finally [1]</b> 8387/7</p> <p><b>finance [13]</b> 8459/8 8459/23 8460/1 8460/2 8460/6 8460/7 8462/2 8462/3 8463/2 8463/5 8463/9 8463/11 8468/18</p> <p><b>financial [27]</b> 8364/16 8365/10 8379/2 8380/11 8388/5 8388/9 8390/4 8391/5 8394/15 8398/10 8398/11 8423/10 8423/11 8460/20 8462/19 8463/3 8463/3 8463/4 8463/10 8464/11 8471/8 8477/15 8477/18 8538/18 8544/16 8544/17</p>	<p>8544/18</p> <p><b>financials [1]</b> 8396/2</p> <p><b>financing [8]</b> 8370/6 8467/17 8470/20 8470/22 8482/13 8484/21 8485/6 8485/8</p> <p><b>financings [5]</b> 8365/17 8470/23 8481/5 8484/6 8486/3</p> <p><b>findings [2]</b> 8531/23 8554/3</p> <p><b>fine [7]</b> 8323/19 8354/2 8355/3 8426/9 8431/19 8433/1 8510/2</p> <p><b>finely [1]</b> 8357/25</p> <p><b>fingerprints [1]</b> 8455/7</p> <p><b>finish [9]</b> 8316/16 8391/24 8404/6 8405/16 8417/4 8431/17 8557/18 8557/19 8583/14</p> <p><b>finished [2]</b> 8404/16 8404/18</p> <p><b>firm [63]</b> 8350/15 8353/21 8364/24 8364/25 8364/25 8365/7 8368/15 8368/19 8369/15 8369/25 8370/21 8370/23 8371/8 8371/22 8371/25 8372/1 8372/13 8373/24 8374/3 8378/13 8379/10 8379/14 8381/24 8382/3 8382/22 8382/24 8383/3 8383/4 8383/11 8384/11 8384/18 8384/21 8385/12 8386/17 8387/2 8392/12 8393/7 8393/8 8398/7 8399/3 8399/3 8399/4 8399/12 8400/14 8423/6 8423/20 8423/20 8423/21 8428/6 8428/7 8443/6 8448/18 8449/5 8463/20 8463/21 8467/19 8468/6 8469/14 8469/20 8472/3 8472/8 8481/10 8482/20</p> <p><b>firm's [4]</b> 8368/5 8371/6 8378/25 8379/8</p> <p><b>firm-wide [2]</b> 8369/15 8369/25</p> <p><b>firms [4]</b> 8463/18 8464/15 8467/23 8470/23</p> <p><b>first [43]</b> 8308/16 8312/21 8323/6 8324/20 8334/17 8344/20 8358/23 8367/8 8368/3 8368/3 8379/2 8379/20 8380/10 8380/24 8382/22 8391/1 8392/18 8392/20 8398/16 8410/25 8421/8 8458/22 8466/20 8468/13 8477/7 8480/20 8494/9 8498/12 8498/13 8498/16 8500/17 8501/19 8512/4 8512/6 8517/10 8517/13 8528/22 8529/9 8539/2 8539/5 8539/8 8572/24 8581/20</p> <p><b>fiscal [8]</b> 8367/10 8368/2 8368/3 8368/4 8369/12 8370/6 8371/9 8371/10</p> <p><b>fit [1]</b> 8489/18</p> <p><b>five [15]</b> 8383/11 8434/23 8435/9 8453/13 8453/24 8519/20 8523/15 8531/22 8546/14 8546/15 8547/6 8547/12 8547/13 8567/22 8567/24</p> <p><b>five-minute [1]</b> 8453/13</p> <p><b>flip [1]</b> 8477/21</p> <p><b>Floor [1]</b> 8307/18</p> <p><b>flows [1]</b> 8520/19</p> <p><b>fluid [1]</b> 8431/4</p> <p><b>fly [1]</b> 8433/7</p> <p><b>focus [4]</b> 8320/7 8406/14 8418/22 8581/19</p> <p><b>focused [3]</b> 8406/18 8551/14 8582/3</p> <p><b>focusing [1]</b> 8581/1</p> <p><b>folder [1]</b> 8349/24</p> <p><b>follow [6]</b> 8309/16 8391/15 8400/20 8410/21 8430/3 8570/24</p> <p><b>followed [1]</b> 8410/14</p> <p><b>following [24]</b> 8312/14 8325/12 8342/3 8350/21 8352/1 8358/18 8371/7 8392/11 8396/1 8397/25 8398/5 8398/5 8477/16 8521/23 8522/11 8524/17 8524/25 8525/9 8532/19 8533/16 8543/6 8549/2 8569/7 8569/22</p> <p><b>follows [3]</b> 8324/21 8458/23 8462/1</p> <p><b>followup [1]</b> 8414/15</p> <p><b>followups [1]</b> 8410/11</p> <p><b>Footnote [1]</b> 8554/16</p> <p><b>force [1]</b> 8572/15</p> <p><b>forecast [1]</b> 8520/18</p> <p><b>forecasting [1]</b> 8462/11</p> <p><b>forget [1]</b> 8510/7</p> <p><b>forgot [1]</b> 8391/24</p> <p><b>form [15]</b> 8325/3 8325/5 8368/17 8372/9 8382/1 8384/5 8412/2 8428/15 8440/25 8478/3 8478/9 8499/20 8506/24 8524/19 8581/22</p> <p><b>format [3]</b> 8349/14 8349/21 8505/10</p>
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8365/12 8365/14 8385/5 8385/11 8385/14 8385/16  <b>mid</b> [1] 8507/23  <b>mid-afternoon</b> [1] 8507/23  <b>middle</b> [5] 8346/1 8355/15 8363/7 8497/10 8515/12  <b>midnight</b> [1] 8360/20  <b>might</b> [44] 8310/6 8310/9 8310/17 8311/22 8312/6 8313/14 8313/18 8314/5 8314/9 8315/13 8315/16 8315/16 8317/18 8317/18 8318/1 8318/4 8318/18 8318/22 8319/2 8320/16 8322/5 8322/22 8327/19 8340/16 8355/19 8363/18 8392/20 8400/11 8402/3 8408/21 8416/4 8416/10 8437/13 8441/25 8452/8 8455/21 8467/24 8468/9 8468/10 8489/22 8507/22 8520/21 8521/7 8576/8  <b>Milan</b> [1] 8461/17  <b>million</b> [12] 8367/23 8481/4 8487/10 8487/25 8561/10 8561/20 8561/21 8562/9 8573/14 8575/4 8575/4 8575/6  <b>mind</b> [37] 8309/10 8311/20 8313/25 8314/1 8315/25 8320/8 8330/20 8330/21 8332/13 8333/1 8333/6 8333/14 8334/22 8335/9 8335/21 8336/18 8337/2 8337/5 8337/15 8337/23 8338/14 8339/5 8339/6 8339/8 8339/9 8340/7 8389/22 8404/12 8405/8 8405/23 8407/3 8410/23 8413/12 8416/10 8419/12 8420/7 8538/10  <b>minded</b> [1] 8507/25  <b>mindful</b> [2] 8354/9 8411/17  <b>mine</b> [2] 8330/20 8495/5  <b>Minkoff</b> [1] 8324/9  <b>Minkoff's</b> [2] 8309/3 8309/14  <b>minus</b> [1] 8574/12  <b>minute</b> [13] 8331/20 8331/25 8396/6 8429/16 8429/20 8429/22 8429/25 8430/23 8434/23 8435/9 8446/2 8453/13 8531/6  <b>minutes</b> [8] 8392/10 8429/12 8429/24 8446/20 8446/20 8453/24 8508/3 8559/11  <b>missing</b> [3] 8458/13 8508/16 8508/22  <b>mission</b> [1] 8538/19  <b>misspoke</b> [1] 8558/7  <b>misstatement</b> [1] 8401/21  <b>mistake</b> [1] 8356/10  <b>misunderstood</b> [1] 8410/1  <b>mixes</b> [1] 8513/1  <b>models</b> [1] 8472/12  <b>mom</b> [1] 8544/22  <b>moment</b> [7] 8316/5 8397/14 8532/21 8539/2 8558/4 8564/13 8575/17  <b>money</b> [25] 8314/2 8316/20 8317/11 8326/24 8367/21 8376/5 8399/6 8423/23 8428/1 8443/21 8447/14 8447/15 8448/16 8464/16 8470/5 8470/17 8470/24 8473/22 8479/25 8480/3 8482/12 8482/12 8482/13 8486/6 8489/19  <b>monitor</b> [1] 8333/17  <b>month</b> [23] 8492/18 8493/1 8493/1 8493/6 8493/7 8493/14 8493/23 8494/23 8500/21 8505/25 8506/3 8506/21 8507/16 8509/12 8562/22 8567/3 8567/15 8567/23 8568/2 8573/8 8574/19 8580/17 8581/1  <b>month-to-month</b> [1] 8493/1  <b>monthly</b> [10] 8492/17 8496/23 8498/23 8499/10 8499/19 8500/12 8500/15 8516/25 8572/18 8580/17  <b>months</b> [13] 8379/22 8492/20 8492/22 8495/2 8495/3 8495/4 8495/16 8496/3 8497/5 8497/5 8506/3 8516/25 8517/12  <b>Moriarty</b> [3] 8375/22 8383/12 8384/13  <b>morning</b> [16] 8324/15 8332/6 8360/20 8360/24 8379/16 8392/8 8400/19 8401/1 8404/8</p>	<p>8410/10 8442/19 8442/20 8456/17 8582/19 8582/2 8583/9  <b>most</b> [7] 8441/2 8467/14 8467/24 8482/6 8498/18 8520/25 8554/7  <b>mostly</b> [1] 8551/14  <b>motion</b> [3] 8308/8 8343/11 8361/23  <b>mouth</b> [1] 8401/15  <b>move</b> [20] 8339/20 8361/2 8362/13 8362/13 8363/20 8398/21 8400/8 8409/18 8409/19 8422/11 8422/24 8424/24 8424/25 8425/1 8426/10 8430/13 8432/10 8468/21 8478/13 8559/9  <b>moved</b> [2] 8398/20 8566/7  <b>moving</b> [11] 8362/9 8373/16 8374/10 8374/13 8387/7 8394/5 8394/17 8402/19 8404/16 8407/22 8422/16  <b>Mr. [434]</b>  <b>Mr. Aselage</b> [1] 8406/11  <b>Mr. Biestek</b> [6] 8492/20 8492/22 8493/7 8493/12 8524/12 8570/10  <b>Mr. Brodsky</b> [24] 8331/11 8332/19 8354/11 8382/4 8396/4 8396/10 8399/22 8402/14 8402/16 8404/19 8408/17 8409/3 8409/13 8410/1 8410/3 8421/3 8426/2 8431/6 8431/9 8437/14 8442/12 8442/13 8443/3 8457/2  <b>Mr. Brodsky's</b> [4] 8340/10 8397/13 8399/14 8409/22  <b>Mr. Carter</b> [5] 8484/13 8484/19 8485/4 8486/11 8511/6  <b>Mr. Chan</b> [3] 8308/5 8320/19 8323/11  <b>Mr. Chris</b> [1] 8365/12  <b>Mr. Cotton</b> [2] 8385/16 8583/13  <b>Mr. Fernandez</b> [4] 8494/9 8494/11 8513/15 8517/17  <b>Mr. Ferruolo</b> [1] 8308/18  <b>Mr. Greebel</b> [185] 8309/7 8311/5 8311/8 8311/19 8312/3 8312/6 8313/12 8313/20 8313/20 8313/24 8314/11 8315/2 8315/12 8315/14 8315/19 8317/10 8317/14 8318/16 8319/8 8319/15 8320/7 8320/8 8321/17 8322/11 8322/13 8322/16 8325/1 8325/2 8325/8 8325/9 8325/25 8326/11 8326/11 8326/13 8327/8 8327/14 8327/22 8328/2 8328/4 8328/8 8330/5 8331/4 8331/11 8332/18 8333/19 8334/6 8334/9 8335/17 8339/25 8340/1 8340/3 8344/10 8345/3 8345/5 8345/15 8345/20 8345/23 8346/5 8346/14 8346/17 8346/21 8348/1 8348/16 8348/24 8350/4 8350/17 8355/21 8355/24 8358/20 8360/7 8366/14 8371/12 8371/13 8371/16 8371/17 8372/21 8374/6 8378/21 8386/19 8386/21 8387/2 8387/8 8387/12 8387/16 8387/18 8387/25 8388/12 8388/21 8388/21 8389/6 8389/8 8389/16 8389/25 8390/14 8390/19 8390/23 8390/23 8391/3 8391/12 8391/15 8391/18 8392/13 8393/1 8393/12 8393/22 8394/2 8394/3 8394/3 8394/20 8394/20 8396/7 8397/2 8397/6 8399/11 8399/15 8399/19 8400/13 8400/14 8400/20 8400/24 8402/23 8402/23 8403/8 8403/8 8404/3 8404/12 8404/22 8407/7 8407/17 8408/4 8408/11 8408/18 8409/11 8409/24 8410/5 8410/14 8412/14 8412/16 8413/6 8413/12 8414/5 8415/5 8416/9 8417/2 8417/24 8418/1 8418/1 8418/12 8418/23 8418/24 8419/2 8419/10 8419/12 8420/6 8420/21 8420/23 8422/21 8422/21 8424/5 8428/12 8428/14 8428/25 8429/6 8429/12 8434/17 8434/23 8435/6 8442/5 8443/5 8445/4 8445/7 8445/10 8445/13 8445/16 8445/20 8445/24 8449/12 8450/9 8450/18 8450/21 8450/25 8451/4 8451/21 8451/25 8469/8  <b>Mr. Greebel's</b> [25] 8311/22 8311/23 8312/8 8314/19 8315/24 8320/17 8334/5 8334/11 8340/7 8347/2 8348/11 8369/17 8377/4 8394/15 8397/20 8402/18 8404/4 8407/3 8420/8 8422/15 8431/2 8449/25 8450/2 8450/6 8452/1</p>
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<p><b>M</b>  <b>Mr. Jacobs [58]</b> 8324/24 8326/9 8342/19  8344/3 8345/2 8346/21 8355/5 8355/24 8360/8  8389/5 8389/15 8389/20 8391/17 8391/24  8400/17 8400/20 8400/22 8404/3 8404/6  8405/9 8408/13 8409/5 8409/15 8409/23  8410/4 8410/13 8411/7 8412/20 8414/1 8414/5  8414/12 8415/3 8415/14 8418/23 8418/24  8419/4 8419/10 8419/12 8419/18 8419/21  8420/6 8423/2 8424/20 8424/24 8426/3  8426/21 8426/22 8430/21 8431/13 8432/15  8434/6 8452/10 8452/19 8453/2 8453/7 8454/8  8454/21 8456/3  <b>Mr. Jacobs' [3]</b> 8349/1 8418/22 8431/3  <b>Mr. Jain's [1]</b> 8355/17  <b>Mr. Kessler [1]</b> 8315/17  <b>Mr. Lewis [2]</b> 8324/8 8511/7  <b>Mr. Lewis' [1]</b> 8308/9  <b>Mr. Martin [3]</b> 8443/24 8523/23 8529/4  <b>Mr. Mastro's [1]</b> 8453/1  <b>Mr. Minkoff's [1]</b> 8309/14  <b>Mr. Mulleady [13]</b> 8494/19 8494/21 8494/23  8503/25 8504/2 8504/8 8504/19 8517/20  8524/9 8524/15 8525/16 8529/4 8570/10  <b>Mr. Pierotti [19]</b> 8504/12 8504/13 8504/16  8504/17 8504/18 8516/17 8517/22 8530/11  8563/17 8567/20 8570/21 8571/13 8572/3  8572/8 8573/19 8574/12 8574/23 8580/23  8580/25  <b>Mr. Pierotti's [3]</b> 8516/14 8568/1 8571/10  <b>Mr. Pitluck [8]</b> 8491/14 8578/23 8580/18  8581/1 8581/5 8581/19 8582/3 8582/13  <b>Mr. Rosenwald [6]</b> 8317/23 8317/24 8318/6  8414/25 8583/9 8583/10  <b>Mr. Rosenwald's [2]</b> 8315/10 8315/17  <b>Mr. Shkreli [17]</b> 8309/12 8313/3 8318/13  8418/1 8445/13 8445/16 8445/21 8445/24  8449/12 8450/8 8450/17 8450/21 8451/1  8451/3 8451/20 8454/10 8562/17  <b>Mr. Shkreli's [4]</b> 8313/22 8454/2 8454/6  8454/11  <b>Mr. Sullivan [5]</b> 8495/10 8498/10 8513/17  8523/18 8570/15  <b>Mr. Sullivan's [1]</b> 8498/18  <b>Mr. Tilles [2]</b> 8495/14 8495/15  <b>Mr. Vaino [19]</b> 8495/20 8495/21 8495/25  8499/11 8503/9 8503/23 8504/10 8504/11  8504/18 8509/7 8523/12 8523/14 8523/23  8525/17 8529/6 8567/17 8567/22 8580/23  8580/25  <b>Mr. Verde [3]</b> 8354/17 8354/18 8354/19  <b>MR.Jacobs [1]</b> 8334/16  <b>Ms. [25]</b> 8309/18 8311/8 8311/23 8314/11  8314/15 8316/14 8317/7 8317/12 8318/21  8320/14 8321/13 8322/4 8322/25 8397/25  8428/19 8446/11 8447/3 8447/12 8449/13  8508/6 8509/5 8511/4 8549/4 8578/22 8579/13  <b>Ms. Denerstein [6]</b> 8508/6 8509/5 8511/4  8549/4 8578/22 8579/13  <b>Ms. Klein [10]</b> 8309/18 8311/8 8311/23  8314/11 8314/15 8316/14 8317/7 8317/12  8318/21 8322/25  <b>Ms. Klein's [3]</b> 8320/14 8321/13 8322/4  <b>Ms. Smith [5]</b> 8397/25 8428/19 8446/11  8447/3 8449/13  <b>Ms. Smith's [1]</b> 8447/12  <b>MSMB [21]</b> 8313/3 8317/11 8318/12 8318/13  8319/9 8320/10 8333/20 8412/15 8436/5  8436/8 8436/16 8436/22 8437/3 8443/19  8443/19 8444/20 8444/22 8444/25 8445/4  8445/7 8447/11  <b>Muchin [13]</b> 8333/18 8381/1 8381/17 8381/24  8382/17 8383/25 8384/11 8385/12 8434/9  8434/16 8443/6 8451/9 8451/15  <b>Muchin's [3]</b> 8380/8 8381/21 8443/21  <b>Mulleady [31]</b> 8486/14 8487/14 8488/1  8490/10 8494/15 8494/19 8494/21 8494/23  8497/24 8498/1 8500/21 8503/25 8504/2</p>	<p>8504/8 8504/19 8506/11 8507/10 8507/11  8511/1 8511/7 8515/10 8517/19 8517/20  8522/21 8524/9 8524/15 8525/16 8526/10  8528/23 8529/4 8570/10  <b>multi [5]</b> 8352/25 8360/11 8367/23 8367/23  8367/25  <b>multi-billion [3]</b> 8352/25 8367/23 8367/25  <b>Multi-million [1]</b> 8367/23  <b>multi-page [1]</b> 8360/11  <b>multiple [6]</b> 8330/9 8331/21 8333/8 8341/23  8433/6 8433/12  <b>must [2]</b> 8311/5 8323/16  <b>mutual [1]</b> 8521/3  <b>MYLAN [1]</b> 8307/20</p> <hr/> <p><b>N</b></p> <p><b>name [21]</b> 8345/10 8353/4 8366/19 8366/25  8367/16 8369/6 8370/17 8373/3 8373/25  8375/11 8386/9 8458/25 8459/1 8506/5  8518/16 8518/17 8533/6 8535/4 8537/14  8576/24 8579/4  <b>named [2]</b> 8379/1 8486/17  <b>names [6]</b> 8352/3 8355/7 8364/9 8375/18  8486/15 8487/11  <b>naming [9]</b> 8369/3 8373/7 8373/20 8374/17  8375/9 8375/25 8394/24 8394/25 8424/8  <b>narrative [1]</b> 8400/2  <b>narrow [2]</b> 8407/14 8408/1  <b>narrowly [3]</b> 8360/23 8362/11 8427/5  <b>Nasdaq [22]</b> 8385/3 8471/2 8471/3 8471/6  8471/7 8471/20 8471/24 8472/9 8476/19  8478/10 8478/14 8481/16 8481/21 8481/25  8482/3 8482/4 8482/15 8482/17 8483/15  8483/18 8483/21 8484/8  <b>Nasdaq-listed [1]</b> 8385/3  <b>Nashville [1]</b> 8459/17  <b>national [1]</b> 8383/9  <b>nature [12]</b> 8338/20 8352/19 8354/1 8367/13  8370/18 8374/18 8375/10 8375/11 8375/25  8376/21 8386/16 8578/3  <b>near [1]</b> 8382/25  <b>nearly [7]</b> 8563/22 8563/24 8565/21 8567/6  8567/7 8567/14 8573/22  <b>necessarily [3]</b> 8412/11 8427/12 8439/12  <b>necessary [8]</b> 8346/19 8388/8 8388/13  8388/23 8389/10 8390/2 8403/11 8418/9  <b>need [33]</b> 8318/21 8320/2 8323/11 8341/12  8351/1 8384/7 8384/8 8389/20 8394/7 8406/15  8408/6 8413/19 8415/3 8430/17 8430/21  8430/25 8431/21 8453/14 8456/15 8470/17  8489/19 8491/14 8508/20 8529/23 8529/23  8531/6 8536/19 8544/19 8544/23 8548/10  8577/1 8583/5 8583/6  <b>needed [2]</b> 8447/1 8481/9  <b>needs [5]</b> 8323/14 8339/16 8407/24 8408/25  8430/10  <b>net [75]</b> 8492/23 8493/1 8493/8 8493/14  8493/14 8493/16 8493/19 8493/24 8494/1  8494/3 8494/4 8494/21 8494/25 8494/25  8495/1 8495/10 8495/15 8495/22 8496/12  8496/17 8497/11 8498/10 8499/15 8500/8  8500/13 8500/15 8500/24 8501/25 8502/8  8502/12 8502/21 8502/24 8503/13 8503/15  8505/10 8505/11 8505/14 8505/15 8505/23  8505/24 8507/9 8507/11 8515/3 8515/12  8515/19 8515/21 8515/25 8517/23 8518/3  8518/5 8518/7 8518/8 8525/7 8525/8 8526/11  8532/1 8532/4 8532/7 8532/18 8562/21 8563/8  8566/10 8566/21 8573/2 8573/3 8574/21  8574/22 8575/8 8575/9 8580/9 8580/17  8580/17 8580/21 8581/5 8582/3  <b>never [28]</b> 8316/7 8316/23 8358/1 8376/10  8376/13 8382/25 8412/22 8443/24 8444/2  8444/4 8444/15 8444/16 8444/17 8444/19  8444/22 8444/25 8453/21 8454/25 8533/8  8539/12 8539/18 8540/1 8545/25 8546/3  8554/3 8564/3 8564/5 8571/5  <b>new [27]</b> 8307/1 8307/4 8307/13 8307/14</p>	<p>8307/18 8307/18 8309/19 8321/6 8367/6  8367/9 8369/3 8369/13 8370/1 8370/15  8372/2 8376/17 8377/19 8378/9 8380/3  8383/10 8461/19 8461/20 8464/16 8470/17  8481/8 8519/19 8533/7  <b>news [1]</b> 8520/15  <b>newsletter [1]</b> 8377/15  <b>newsletters [1]</b> 8380/11  <b>newspaper [3]</b> 8380/22 8380/24 8381/3  <b>next [62]</b> 8328/25 8333/17 8344/23 8351/7  8358/16 8363/23 8367/4 8368/1 8368/22  8369/11 8370/3 8370/12 8371/3 8372/14  8373/14 8374/13 8374/20 8375/19 8376/15  8376/23 8378/5 8379/21 8386/8 8387/7  8395/12 8398/24 8407/7 8409/19 8415/23  8425/4 8433/22 8449/25 8450/2 8450/6  8452/22 8455/25 8456/10 8458/18 8468/9  8476/3 8479/1 8479/8 8490/22 8492/21  8495/12 8495/20 8496/7 8497/18 8497/24  8498/6 8498/21 8499/7 8500/24 8517/19  8522/15 8522/23 8523/15 8529/1 8548/15  8556/11 8558/11 8583/11  <b>night [4]</b> 8331/14 8332/25 8442/18 8582/22  <b>nine [1]</b> 8428/24  <b>named [1]</b> 8461/4  <b>nominating [1]</b> 8377/21  <b>non [5]</b> 8328/12 8373/12 8413/7 8443/11  8443/16  <b>non-equity [2]</b> 8443/11 8443/16  <b>non-leading [2]</b> 8328/12 8413/7  <b>nonbillable [2]</b> 8371/23 8371/24  <b>nondescript [1]</b> 8379/16  <b>None [1]</b> 8555/21  <b>nonequity [1]</b> 8385/14  <b>nonetheless [1]</b> 8320/22  <b>normal [1]</b> 8544/22  <b>Northlight [4]</b> 8364/16 8365/10 8365/15  8393/24  <b>note [5]</b> 8330/6 8476/1 8476/2 8508/5 8542/12  <b>notebook [1]</b> 8430/8  <b>notebooks [1]</b> 8507/24  <b>notes [8]</b> 8428/17 8428/18 8430/6 8438/17  8438/24 8440/5 8446/19 8477/15  <b>nothing [10]</b> 8310/18 8311/23 8318/14  8319/18 8334/24 8357/19 8397/1 8397/23  8413/18 8578/20  <b>notice [1]</b> 8341/18  <b>noticed [4]</b> 8322/8 8361/21 8362/25 8508/5  <b>notification [1]</b> 8448/14  <b>November [4]</b> 8498/17 8498/18 8499/3 8499/4  <b>November 2013 [1]</b> 8499/3  <b>number [54]</b> 8325/6 8378/15 8382/23 8386/12  8386/25 8387/3 8410/18 8426/24 8461/3  8461/12 8462/2 8462/16 8462/22 8463/8  8463/25 8465/4 8466/8 8467/8 8472/24 8473/3  8473/18 8482/5 8482/20 8487/4 8489/16  8492/19 8493/5 8493/6 8493/25 8497/8  8501/18 8502/2 8505/23 8505/23 8505/24  8516/7 8516/8 8516/12 8517/11 8519/14  8519/15 8523/2 8523/3 8526/21 8527/1  8527/23 8528/3 8528/4 8528/6 8529/8 8529/9  8570/2 8570/3 8573/16  <b>numbers [5]</b> 8493/1 8528/19 8528/20 8530/9  8530/11  <b>numerical [1]</b> 8505/1</p> <hr/> <p><b>O</b></p> <p><b>object [21]</b> 8330/18 8342/7 8346/23 8353/3  8358/6 8362/6 8363/13 8363/14 8363/17  8363/18 8363/19 8405/4 8405/11 8414/14  8430/9 8430/23 8449/3 8449/5 8485/9 8524/19  8548/9  <b>objected [8]</b> 8330/17 8397/10 8397/25 8398/15  8398/25 8406/17 8406/18 8417/8  <b>objecting [5]</b> 8397/17 8414/8 8414/9 8417/25  8508/24  <b>objection [114]</b> 8325/10 8325/11 8325/16  8326/4 8327/3 8327/23 8328/5 8328/7 8328/11</p>
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<p><b>objection...</b> [105] 8328/13 8328/14 8328/23 8330/19 8346/9 8346/24 8349/1 8349/4 8350/11 8350/13 8352/4 8352/12 8353/17 8354/4 8354/19 8356/8 8356/14 8356/17 8356/25 8357/22 8358/4 8359/6 8359/25 8361/8 8362/6 8366/3 8381/18 8381/25 8382/19 8383/21 8384/2 8384/15 8384/16 8385/20 8387/21 8387/22 8388/14 8388/25 8389/13 8390/16 8391/10 8394/6 8396/23 8398/16 8398/18 8398/18 8400/6 8400/9 8401/2 8401/16 8404/2 8404/23 8405/14 8410/12 8410/19 8410/25 8414/12 8418/7 8427/10 8432/14 8435/1 8438/3 8439/21 8439/23 8440/25 8441/14 8447/21 8448/6 8448/8 8448/22 8449/6 8449/18 8450/12 8451/11 8451/16 8451/23 8456/2 8468/25 8488/10 8492/6 8501/8 8501/23 8506/24 8510/11 8514/21 8517/4 8517/25 8522/4 8525/24 8527/13 8549/4 8549/6 8555/7 8556/9 8557/2 8557/17 8559/6 8560/18 8565/9 8572/4 8577/2 8579/18 8581/3 8581/22 8581/24</p> <p><b>objections</b> [16] 8331/15 8336/6 8342/2 8343/22 8353/25 8354/9 8356/6 8360/25 8405/3 8406/25 8408/23 8409/14 8410/2 8410/10 8412/2 8450/14</p> 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<p><b>reasonable...</b> [20] 8317/14 8317/17 8317/22 8321/14 8322/5 8322/6 8322/7 8322/9 8322/23 8322/23 8322/23 8323/7 8323/8 8323/16 8323/17 8413/17 8413/21 8419/5 8420/5 8421/3</p> <p><b>reasonably</b> [6] 8311/19 8313/20 8314/8 8320/9 8412/17 8415/11</p> <p><b>reasons</b> [10] 8318/19 8318/20 8318/22 8319/10 8489/13 8489/15 8489/16 8520/21 8520/23 8521/7</p> <p><b>rebut</b> [2] 8555/17 8555/20</p> <p><b>recalled</b> [3] 8405/17 8424/19 8424/21</p> <p><b>recalling</b> [4] 8351/5 8424/16 8432/7 8432/15</p> <p><b>receive</b> [10] 8349/15 8372/5 8374/15 8472/24 8501/9 8505/5 8514/22 8517/5 8522/5 8527/14</p> <p><b>received</b> [23] 8333/16 8338/17 8383/14 8383/15 8410/17 8413/13 8415/10 8420/9 8461/6 8481/15 8492/7 8492/9 8492/11 8501/10 8505/6 8514/24 8517/6 8522/7 8525/25 8526/1 8527/15 8557/6 8583/4</p> <p><b>receives</b> [3] 8412/14 8413/17 8448/17</p> <p><b>receiving</b> [5] 8348/20 8386/12 8386/25 8387/3 8417/2</p> <p><b>recent</b> [1] 8377/2</p> <p><b>recently</b> [2] 8370/12 8555/18</p> <p><b>recess</b> [3] 8403/22 8457/5 8510/18</p> <p><b>recipient</b> [2] 8323/8 8389/19</p> <p><b>recognitions</b> [1] 8462/22</p> <p><b>recognize</b> [3] 8330/18 8352/3 8399/22</p> <p><b>recollect</b> [1] 8437/13</p> <p><b>recollection</b> [24] 8363/4 8367/13 8370/8 8376/20 8380/25 8387/10 8392/19 8408/20 8443/1 8444/5 8451/2 8451/5 8451/7 8509/1 8565/5 8565/15 8576/9 8576/17 8576/19 8577/12 8577/13 8577/18 8578/4 8578/14</p> <p><b>recollections</b> [1] 8325/24</p> <p><b>recommendation</b> [10] 8394/15 8394/21 8400/13 8400/16 8400/20 8401/19 8402/18 8402/23 8403/9 8422/22</p> <p><b>recommendations</b> [1] 8422/15</p> <p><b>recommended</b> [9] 8394/16 8397/2 8397/7 8397/20 8399/15 8399/19 8402/19 8422/16 8424/13</p> <p><b>recommending</b> [1] 8388/10</p> <p><b>record</b> [32] 8308/22 8309/11 8311/25 8312/2 8313/2 8318/21 8318/25 8320/13 8330/19 8332/9 8359/9 8364/10 8389/23 8396/14 8396/16 8398/4 8398/24 8399/9 8399/10 8399/16 8401/6 8402/16 8403/3 8404/22 8422/13 8426/1 8429/17 8429/19 8455/9 8508/21 8510/4 8578/25</p> <p><b>recorded</b> [2] 8307/24 8579/25</p> <p><b>records</b> [1] 8406/9</p> <p><b>recross</b> [1] 8582/14</p> <p><b>red</b> [6] 8483/4 8483/5 8497/2 8506/15 8516/11 8528/20</p> <p><b>redactions</b> [2] 8354/20 8354/21</p> <p><b>redirect</b> [13] 8430/11 8430/20 8431/14 8431/15 8431/18 8431/21 8432/2 8432/6 8432/11 8446/4 8446/6 8452/4 8579/8</p> <p><b>reduce</b> [2] 8513/24 8550/15</p> <p><b>Redwood</b> [3] 8364/16 8365/16 8365/17</p> <p><b>REED</b> [1] 8307/19</p> <p><b>refer</b> [1] 8503/12</p> <p><b>references</b> [1] 8312/1</p> <p><b>referred</b> [4] 8375/20 8475/10 8475/14 8475/17</p> <p><b>referring</b> [6] 8376/7 8455/13 8479/18 8554/14 8579/10 8580/14</p> <p><b>refers</b> [3] 8375/19 8376/18 8554/17</p> <p><b>reflect</b> [8] 8494/14 8494/18 8496/8 8501/17 8502/2 8512/2 8512/15 8512/17</p> <p><b>reflected</b> [1] 8339/5</p> <p><b>reflects</b> [2] 8502/3 8554/2</p> <p><b>refrain</b> [1] 8450/13</p> <p><b>reframe</b> [1] 8577/4</p> <p><b>refresh</b> [15] 8325/24 8363/4 8380/25 8443/1 8454/9 8565/5 8565/15 8568/13 8576/8</p>	<p>8576/19 8577/11 8577/13 8577/18 8578/4 8578/12</p> <p><b>refreshes</b> [1] 8576/17</p> <p><b>refusal</b> [1] 8337/21</p> <p><b>refused</b> [2] 8361/20 8361/22</p> <p><b>refusing</b> [2] 8309/9 8362/1</p> <p><b>regard</b> [2] 8388/16 8452/13</p> <p><b>regarding</b> [20] 8308/11 8308/24 8309/3 8309/15 8323/7 8323/9 8328/16 8345/5 8346/5 8346/14 8384/12 8387/25 8389/15 8409/23 8410/14 8413/11 8529/19 8531/23 8560/22 8565/7</p> <p><b>regardless</b> [2] 8323/15 8420/4</p> <p><b>registered</b> [1] 8478/23</p> <p><b>registration</b> [7] 8368/4 8368/14 8398/9 8398/12 8423/9 8423/11 8478/24</p> <p><b>registrations</b> [2] 8368/15 8368/17</p> <p><b>regular</b> [1] 8528/7</p> <p><b>regularly</b> [1] 8524/24</p> <p><b>Regulation</b> [1] 8478/25</p> <p><b>Regulation D</b> [1] 8478/25</p> <p><b>regulations</b> [1] 8309/1</p> <p><b>regulator</b> [1] 8464/11</p> <p><b>regulators</b> [2] 8466/7 8466/16</p> <p><b>regulatory</b> [4] 8321/8 8463/24 8471/18 8471/22</p> <p><b>rehabilitate</b> [1] 8555/19</p> <p><b>rehash</b> [3] 8406/15 8431/20 8576/3</p> <p><b>related</b> [11] 8356/19 8373/5 8380/14 8394/12 8410/20 8420/10 8448/21 8477/15 8541/2 8556/3 8577/24</p> <p><b>relates</b> [3] 8322/18 8370/8 8377/13</p> <p><b>relating</b> [10] 8345/15 8345/20 8355/16 8380/8 8388/19 8389/6 8389/7 8389/25 8407/8 8420/8</p> <p><b>relation</b> [1] 8427/13</p> <p><b>relationship</b> [23] 8366/23 8367/6 8367/7 8368/23 8370/4 8370/16 8372/25 8373/15 8374/6 8374/8 8374/14 8374/21 8376/16 8376/19 8385/2 8386/10 8398/7 8398/7 8423/6 8423/6 8529/19 8542/3 8542/20</p> <p><b>relationships</b> [2] 8352/8 8372/3</p> <p><b>relative</b> [3] 8472/8 8520/16 8524/5</p> <p><b>relatively</b> [3] 8472/4 8482/8 8488/25</p> <p><b>release</b> [30] 8325/3 8325/4 8325/5 8325/7 8325/9 8325/14 8326/10 8326/12 8326/13 8326/14 8326/16 8326/19 8326/23 8327/6 8327/10 8327/16 8327/18 8336/2 8407/13 8412/9 8412/10 8413/5 8414/3 8414/17 8415/4 8427/18 8462/9 8480/16 8480/20 8576/25</p> <p><b>releases</b> [5] 8318/12 8325/2 8410/14 8410/21 8412/8</p> <p><b>releasor</b> [2] 8326/19 8326/20</p> <p><b>relevance</b> [14] 8308/9 8322/12 8330/1 8330/4 8331/2 8344/4 8344/7 8357/17 8366/3 8382/19 8384/15 8407/11 8409/9 8411/24</p> <p><b>relevant</b> [33] 8308/14 8309/5 8309/17 8311/20 8311/23 8316/3 8317/22 8318/2 8318/3 8320/8 8320/21 8321/9 8322/20 8325/21 8330/21 8332/19 8333/3 8333/15 8335/4 8340/5 8350/4 8355/22 8356/21 8361/15 8362/12 8404/12 8405/25 8406/2 8410/7 8410/8 8410/19 8411/16 8419/11</p> <p><b>relied</b> [3] 8447/9 8544/15 8546/22</p> <p><b>rely</b> [3] 8447/6 8447/7 8546/19</p> <p><b>remain</b> [3] 8507/25 8516/5 8580/9</p> <p><b>remaining</b> [2] 8475/16 8487/22</p> <p><b>remarkable</b> [1] 8319/18</p> <p><b>remember</b> [49] 8346/5 8346/8 8363/1 8363/2 8363/5 8364/8 8366/13 8375/13 8375/14 8375/15 8375/17 8375/18 8380/7 8387/15 8392/14 8394/12 8394/14 8394/18 8394/19 8396/15 8397/19 8402/17 8403/5 8403/7 8406/11 8422/14 8422/18 8422/20 8423/4 8423/16 8424/1 8429/14 8435/12 8435/13 8436/9 8437/12 8446/10 8447/2 8447/12 8449/13 8518/16 8518/18 8552/6 8561/2 8576/7 8576/22 8576/24 8577/8 8578/1</p> <p><b>remembers</b> [1] 8339/24</p>	<p><b>remove</b> [1] 8516/14</p> <p><b>removed</b> [3] 8302/2 8550/16 8550/19</p> <p><b>repeat</b> [6] 8327/13 8387/23 8403/14 8437/24 8526/7 8566/9</p> <p><b>repeated</b> [2] 8361/19 8419/14</p> <p><b>repeatedly</b> [6] 8361/18 8361/22 8383/12 8417/6 8417/7 8417/9</p> <p><b>rephrase</b> [9] 8327/24 8381/19 8382/5 8383/22 8394/7 8509/20 8524/20 8579/20 8581/12</p> <p><b>rephrased</b> [1] 8384/4</p> <p><b>rephrasing</b> [1] 8400/12</p> <p><b>replacement</b> [1] 8400/25</p> <p><b>report</b> [4] 8468/10 8474/12 8475/18 8555/11</p> <p><b>reported</b> [1] 8545/10</p> <p><b>reporter</b> [3] 8307/22 8403/4 8577/5</p> <p><b>reports</b> [5] 8390/4 8468/7 8520/14 8520/14 8520/15</p> <p><b>represent</b> [32] 8368/12 8368/25 8369/1 8370/15 8382/17 8382/24 8395/3 8418/24 8441/12 8464/15 8483/6 8492/18 8494/8 8495/7 8496/20 8497/7 8497/10 8497/11 8497/13 8498/22 8505/14 8505/15 8505/22 8506/1 8511/18 8511/20 8516/7 8516/12 8523/1 8528/19 8528/20 8529/1</p> <p><b>representation</b> [7] 8353/17 8368/2 8368/9 8381/21 8496/21 8504/25 8538/21</p> <p><b>representations</b> [3] 8447/6 8447/7 8447/9</p> <p><b>representative</b> [3] 8354/8 8520/2 8520/7</p> <p><b>representatives</b> [1] 8326/22</p> <p><b>represented</b> [9] 8317/12 8367/7 8373/2 8419/13 8447/25 8506/8 8507/5 8507/14 8525/13</p> <p><b>representing</b> [7] 8381/2 8381/9 8385/6 8385/7 8385/17 8386/3 8419/3</p> <p><b>represents</b> [13] 8483/5 8487/14 8487/18 8487/20 8494/1 8497/8 8505/23 8511/19 8511/21 8523/2 8527/19 8528/18 8529/5</p> <p><b>reputation</b> [1] 8390/11</p> <p><b>request</b> [5] 8313/22 8362/1 8368/6 8405/16 8452/7</p> <p><b>requested</b> [3] 8361/19 8368/20 8395/3</p> <p><b>requesting</b> [1] 8368/17</p> <p><b>requests</b> [2] 8309/16 8343/23</p> <p><b>require</b> [3] 8360/7 8421/16 8482/12</p> <p><b>required</b> [4] 8335/7 8415/6 8465/13 8474/19</p> <p><b>requirements</b> [3] 8471/5 8471/8 8471/18</p> <p><b>requires</b> [1] 8332/10</p> <p><b>research</b> [21] 8460/3 8460/4 8461/19 8461/20 8461/23 8461/25 8462/1 8462/2 8462/6 8462/7 8462/9 8462/14 8463/10 8467/6 8467/25 8468/1 8468/3 8468/3 8468/5 8468/7 8539/22</p> <p><b>resent</b> [1] 8418/16</p> <p><b>resolve</b> [2] 8405/22 8452/19</p> <p><b>resources</b> [1] 8413/24</p> <p><b>respect</b> [34] 8314/22 8327/15 8328/1 8344/10 8362/10 8386/3 8387/18 8394/3 8398/6 8399/3 8399/9 8399/10 8407/1 8410/15 8413/16 8417/19 8418/21 8423/5 8423/21 8426/11 8427/16 8428/8 8431/23 8432/17 8433/2 8439/5 8441/11 8449/21 8466/10 8506/21 8509/12 8512/21 8513/2 8527/2</p> <p><b>respected</b> [3] 8354/22 8360/17 8417/13</p> <p><b>respectfully</b> [10] 8331/13 8332/22 8335/23 8340/24 8341/16 8352/14 8354/14 8362/21 8362/22 8556/9</p> <p><b>respond</b> [14] 8334/13 8339/16 8360/2 8401/8 8404/15 8404/17 8405/13 8405/21 8409/1 8433/12 8433/13 8456/23 8462/8 8467/19</p> <p><b>responding</b> [2] 8311/2 8513/10</p> <p><b>response</b> [15] 8317/18 8326/5 8338/25 8354/19 8359/4 8360/21 8404/4 8404/7 8416/21 8420/24 8428/16 8428/17 8428/18 8428/22 8521/15</p> <p><b>responses</b> [2] 8418/12 8422/12</p> <p><b>responsibilities</b> [8] 8309/4 8309/15 8438/20 8439/10 8439/24 8440/1 8440/2 8440/4</p> <p><b>responsibility</b> [2] 8382/12 8438/23</p> <p><b>responsible</b> [3] 8436/10 8436/13 8506/20</p>
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<p><b>R</b></p> <p><b>rest</b> [2] 8396/24 8402/3</p> <p><b>restate</b> [9] 8389/20 8390/5 8391/7 8391/7 8414/11 8439/3 8439/4 8539/14 8582/2</p> <p><b>restatement</b> [36] 8345/23 8346/6 8346/6 8346/14 8346/19 8355/17 8355/18 8355/21 8356/19 8357/5 8357/18 8357/19 8358/13 8358/19 8362/10 8387/12 8387/13 8387/19 8388/1 8388/7 8388/8 8388/13 8388/16 8388/19 8388/22 8389/7 8389/9 8389/16 8389/24 8390/2 8390/3 8390/19 8390/24 8391/20 8391/23 8405/6</p> <p><b>restatements</b> [6] 8357/2 8357/6 8358/11 8358/15 8361/2 8390/13</p> <p><b>restating</b> [1] 8390/3</p> <p><b>restrained</b> [1] 8412/24</p> <p><b>restraint</b> [1] 8388/4</p> <p><b>restricted</b> [4] 8373/13 8469/22 8476/6 8476/8</p> <p><b>restrictions</b> [1] 8562/5</p> <p><b>result</b> [5] 8356/13 8368/22 8383/6 8393/21 8420/24</p> <p><b>resulted</b> [3] 8373/15 8374/10 8379/1</p> <p><b>results</b> [1] 8477/18</p> <p><b>resume</b> [2] 8511/4 8583/17</p> <p><b>resumes</b> [2] 8324/12 8422/7</p> <p><b>retain</b> [2] 8375/6 8382/23</p> <p><b>retained</b> [9] 8311/11 8368/12 8370/5 8375/3 8375/4 8375/14 8376/13 8376/17 8533/10</p> <p><b>retention</b> [1] 8375/4</p> <p><b>retire</b> [1] 8393/7</p> <p><b>retired</b> [1] 8435/20</p> <p><b>retirement</b> [2] 8434/20 8435/5</p> <p><b>retiring</b> [2] 8393/18 8407/10</p> <p><b>retrieve</b> [1] 8508/1</p> <p><b>Retrophin</b> [126] 8309/13 8310/3 8311/12 8313/2 8313/5 8313/7 8314/2 8315/1 8315/6 8316/7 8316/21 8317/9 8317/11 8317/15 8317/17 8318/3 8318/10 8318/17 8320/10 8320/24 8321/1 8321/5 8321/15 8334/10 8334/25 8339/23 8340/2 8340/2 8340/4 8346/4 8346/7 8346/15 8355/16 8356/19 8357/6 8357/11 8357/13 8358/13 8358/19 8362/12 8385/3 8385/6 8385/7 8385/17 8386/3 8387/14 8387/19 8388/1 8388/20 8389/7 8389/16 8389/25 8408/10 8412/16 8412/18 8413/19 8415/12 8415/15 8417/2 8418/2 8419/3 8436/5 8436/14 8436/19 8436/25 8437/6 8443/19 8443/22 8444/7 8444/9 8444/11 8444/13 8445/10 8451/12 8451/15 8474/4 8475/13 8475/14 8475/15 8475/15 8479/13 8479/24 8481/10 8481/11 8481/21 8482/20 8483/2 8486/6 8486/19 8486/21 8486/22 8493/7 8493/13 8494/12 8495/11 8495/15 8496/12 8498/25 8502/22 8503/2 8511/16 8512/5 8515/22 8516/5 8518/7 8518/8 8520/16 8523/22 8525/7 8525/8 8529/16 8530/24 8530/24 8532/2 8554/9 8554/18 8559/16 8561/11 8561/14 8561/21 8564/11 8565/18 8565/21 8575/13 8581/8 8582/6</p> <p><b>Retrophin's</b> [12] 8347/7 8347/12 8347/23 8347/24 8348/4 8348/6 8475/4 8478/3 8478/10 8480/16 8480/21 8484/7</p> <p><b>return</b> [6] 8467/5 8473/20 8489/24 8520/25 8521/1 8521/4</p> <p><b>Reuters</b> [1] 8377/1</p> <p><b>revenue</b> [4] 8347/20 8372/4 8373/1 8390/6</p> <p><b>reverse</b> [10] 8343/1 8394/11 8396/8 8396/11 8396/20 8398/8 8399/11 8423/8 8470/11 8475/4</p> <p><b>reversed</b> [1] 8339/8</p> <p><b>reversible</b> [1] 8339/10</p> <p><b>review</b> [9] 8348/17 8349/4 8372/9 8372/21 8378/20 8463/3 8487/11 8529/16 8552/7</p> <p><b>reviewed</b> [21] 8348/21 8491/18 8531/24 8534/20 8534/21 8534/22 8535/8 8537/7 8540/16 8543/10 8545/18 8549/9 8549/10 8549/15 8549/19 8550/2 8551/13 8552/13 8552/17 8557/13 8576/18</p>	<p><b>reviewing</b> [1] 8578/13</p> <p><b>right</b> [1] 8326/17</p> <p><b>right-hand</b> [6] 8493/25 8495/22 8496/11 8497/12 8511/25 8513/4</p> <p><b>rights</b> [3] 8311/12 8335/6 8426/13</p> <p><b>ripe</b> [1] 8555/6</p> <p><b>risk</b> [13] 8321/3 8362/20 8464/8 8464/18 8464/20 8464/23 8465/5 8466/18 8476/24 8477/3 8477/9 8477/10 8489/24</p> <p><b>risks</b> [5] 8466/13 8477/13 8477/16 8477/22 8477/24</p> <p><b>risky</b> [2] 8472/7 8473/22</p> <p><b>Rivka</b> [1] 8307/22</p> <p><b>RivkaTeich</b> [1] 8307/23</p> <p><b>RMR</b> [1] 8307/22</p> <p><b>road</b> [1] 8341/18</p> <p><b>ROHDE</b> [1] 8307/12</p> <p><b>role</b> [14] 8382/8 8383/2 8437/15 8437/23 8438/1 8438/19 8441/15 8443/4 8446/17 8465/10 8465/11 8467/6 8539/19 8541/8</p> <p><b>roles</b> [1] 8538/7</p> <p><b>Ron</b> [6] 8486/13 8498/23 8506/13 8515/6 8541/19 8562/14</p> <p><b>room</b> [1] 8451/1</p> <p><b>roommate</b> [1] 8338/7</p> <p><b>roommate's</b> [1] 8338/12</p> <p><b>Ropes</b> [5] 8373/17 8373/25 8374/2 8374/3 8374/11</p> <p><b>Rosenwald</b> [17] 8314/25 8317/23 8317/24 8318/6 8345/9 8345/12 8345/14 8345/15 8412/23 8413/1 8413/23 8414/25 8415/7 8417/3 8420/25 8583/9 8583/10</p> <p><b>Rosenwald's</b> [9] 8311/25 8313/9 8313/18 8314/8 8315/10 8315/17 8412/14 8413/13 8415/10</p> <p><b>roughly</b> [1] 8574/3</p> <p><b>roundtables</b> [3] 8371/6 8371/13 8371/21</p> <p><b>route</b> [1] 8470/3</p> <p><b>row</b> [31] 8354/8 8492/17 8493/12 8493/20 8493/22 8494/18 8494/18 8500/17 8500/19 8501/13 8517/13 8517/19 8518/4 8522/16 8522/17 8522/22 8523/8 8523/9 8523/16 8523/17 8523/20 8523/21 8524/3 8524/4 8524/7 8524/10 8524/13 8528/15 8528/22 8529/9 8572/24</p> <p><b>row 1</b> [1] 8500/19</p> <p><b>row 22</b> [5] 8493/20 8493/22 8494/18 8494/18 8501/13</p> <p><b>rows</b> [1] 8517/10</p> <p><b>RPR</b> [1] 8307/22</p> <p><b>RTRX</b> [2] 8481/17 8559/16</p> <p><b>rule</b> [22] 8316/10 8316/19 8332/10 8400/5 8405/7 8406/4 8410/20 8414/19 8420/12 8420/12 8431/13 8464/21 8465/4 8465/14 8467/1 8467/9 8467/9 8471/21 8476/6 8552/8 8552/19 8555/13</p> <p><b>Rule 401</b> [2] 8406/4 8414/19</p> <p><b>Rule 403</b> [1] 8410/20</p> <p><b>ruled</b> [2] 8453/25 8453/25</p> <p><b>rules</b> [5] 8308/25 8430/12 8453/22 8453/23 8552/17</p> <p><b>ruling</b> [11] 8323/5 8330/18 8343/4 8343/11 8356/14 8359/19 8361/10 8362/8 8363/12 8432/3 8559/11</p> <p><b>rulings</b> [10] 8342/1 8343/2 8360/10 8360/17 8408/22 8426/9 8426/23 8427/3 8432/12 8433/9</p> <p><b>run</b> [2] 8470/18 8481/9</p>	<p><b>satisfactory</b> [4] 8394/16 8402/19 8422/16 8429/2</p> <p><b>save</b> [1] 8428/3</p> <p><b>saw</b> [7] 8333/23 8366/13 8383/18 8387/10 8412/22 8437/11 8534/7</p> <p><b>scale</b> [5] 8483/24 8524/17 8524/24 8557/15 8560/5</p> <p><b>schedule</b> [2] 8424/24 8432/21</p> <p><b>scheduling</b> [1] 8433/9</p> <p><b>scheme</b> [1] 8314/2</p> <p><b>scholarship</b> [4] 8462/15 8462/24 8467/12 8467/14</p> <p><b>school</b> [15] 8334/5 8334/6 8334/7 8334/11 8415/3 8415/10 8415/16 8415/17 8459/19 8459/20 8460/13 8460/14 8461/14 8465/25 8518/15</p> <p><b>science</b> [2] 8459/8 8460/25</p> <p><b>scope</b> [15] 8439/22 8440/25 8441/10 8449/19 8451/16 8451/18 8549/23 8550/10 8550/12 8550/19 8550/20 8551/23 8552/2 8556/3 8556/4</p> <p><b>screen</b> [2] 8511/25 8544/3</p> <p><b>scrivener</b> [8] 8437/19 8437/22 8437/25 8438/1 8438/10 8438/16 8438/21 8439/6</p> <p><b>scroll</b> [1] 8365/22</p> <p><b>scrutiny</b> [1] 8321/8</p> <p><b>seat</b> [10] 8308/2 8324/15 8396/2 8404/1 8422/10 8452/14 8456/14 8458/2 8458/18 8511/3</p> <p><b>SEC</b> [34] 8308/25 8318/20 8319/5 8390/5 8396/24 8398/9 8398/9 8398/10 8423/9 8423/9 8440/10 8454/12 8455/13 8464/5 8464/10 8464/11 8465/3 8465/14 8465/16 8466/8 8467/7 8468/20 8474/20 8475/1 8475/2 8518/15 8538/3 8538/6 8538/19 8539/9 8539/17 8540/2 8540/4 8575/25</p> <p><b>SEC's</b> [1] 8538/12</p> <p><b>second</b> [29] 8322/8 8330/24 8331/21 8332/24 8332/24 8333/1 8333/8 8333/12 8336/20 8336/24 8338/3 8338/5 8338/6 8338/21 8339/17 8342/4 8356/3 8356/20 8392/22 8402/6 8417/6 8426/19 8428/8 8470/11 8471/3 8474/8 8481/11 8512/8 8522/22</p> <p><b>Secretary</b> [25] 8429/15 8429/21 8429/24 8430/6 8430/7 8430/8 8437/15 8437/18 8437/22 8437/23 8437/25 8438/1 8438/2 8438/11 8438/13 8438/17 8438/25 8439/5 8439/7 8446/10 8446/14 8446/17 8446/18 8446/19 8475/20</p> <p><b>Secretary's</b> [1] 8439/11</p> <p><b>Section</b> [1] 8478/24</p> <p><b>sector</b> [3] 8544/16 8544/17 8544/18</p> <p><b>securities</b> [21] 8460/22 8462/5 8464/6 8464/17 8466/3 8469/16 8469/18 8473/19 8473/25 8476/6 8477/2 8477/11 8478/23 8478/25 8489/19 8520/13 8520/25 8521/1 8576/1 8578/24 8579/2</p> <p><b>security</b> [4] 8466/7 8466/16 8469/11 8476/8</p> <p><b>see</b> [50] 8317/24 8319/1 8342/17 8348/10 8348/13 8352/21 8356/13 8360/3 8365/23 8373/18 8387/8 8401/13 8414/19 8414/21 8433/20 8437/9 8447/17 8458/9 8483/18 8483/22 8483/24 8484/1 8495/22 8497/4 8498/9 8499/4 8508/6 8509/3 8511/8 8514/10 8515/9 8522/21 8522/22 8526/3 8526/4 8526/6 8528/21 8528/23 8529/24 8532/18 8546/10 8555/11 8559/4 8559/13 8560/7 8578/4 8578/7 8578/9 8578/16 8582/19</p> <p><b>seeing</b> [1] 8437/12</p> <p><b>seek</b> [2] 8318/12 8362/7</p> <p><b>seeking</b> [2] 8344/15 8411/16</p> <p><b>seem</b> [4] 8312/22 8409/21 8424/12 8572/9</p> <p><b>select</b> [13] 8377/21 8506/21 8511/24 8512/22 8513/19 8532/10 8541/11 8554/13 8564/10 8566/21 8574/12 8580/3 8580/8</p> <p><b>selected</b> [3] 8381/2 8382/17 8565/22</p> <p><b>self</b> [1] 8338/20</p> <p><b>self-serving</b> [1] 8338/20</p>
	<p><b>S</b></p> <p><b>S-1</b> [3] 8478/3 8478/9 8540/23</p> <p><b>safe</b> [3] 8402/8 8503/3 8539/11</p> <p><b>salary</b> [2] 8372/6 8443/15</p> <p><b>sale</b> [9] 8498/12 8498/13 8523/1 8523/2 8529/5 8529/5 8529/8 8529/10 8529/11</p> <p><b>sales</b> [3] 8492/21 8529/9 8568/1</p> <p><b>Sarah</b> [2] 8345/19 8345/20</p> <p><b>sat</b> [4] 8333/17 8334/11 8347/15 8348/22</p>	

<p><b>S</b> sell [42] 8464/17 8468/11 8469/16 8471/16 8472/25 8473/5 8476/9 8476/16 8476/17 8480/19 8480/21 8482/7 8489/15 8489/16 8489/19 8490/6 8493/8 8493/14 8493/23 8496/2 8496/5 8497/1 8498/2 8499/11 8499/21 8501/22 8503/5 8503/25 8504/8 8504/10 8504/16 8514/1 8526/21 8528/9 8528/20 8529/15 8530/1 8562/15 8570/9 8570/13 8570/15 8570/17</p> <p><b>seller</b> [13] 8493/19 8494/3 8494/4 8494/21 8494/25 8495/1 8495/22 8496/12 8496/17 8500/8 8507/9 8507/11 8529/6</p> <p><b>sellers</b> [14] 8502/8 8502/12 8502/21 8502/24 8515/22 8516/1 8518/3 8518/7 8518/8 8525/7 8526/12 8532/1 8532/4 8580/10</p> <p><b>selling</b> [41] 8470/6 8472/20 8472/23 8473/13 8493/17 8494/23 8496/1 8498/4 8499/12 8500/6 8502/18 8502/19 8503/23 8505/16 8507/8 8513/1 8513/1 8513/5 8513/9 8513/11 8513/13 8513/20 8513/23 8516/17 8517/23 8521/6 8521/9 8523/10 8523/14 8525/2 8525/4 8525/6 8526/15 8527/1 8527/9 8527/22 8528/2 8528/16 8530/4 8532/7 8532/11</p> <p><b>sells</b> [11] 8496/4 8496/6 8498/3 8498/10 8499/13 8499/22 8499/22 8529/2 8569/12 8570/2 8570/9</p> <p><b>seminars</b> [1] 8371/6</p> <p><b>Senate</b> [1] 8468/18</p> <p><b>send</b> [1] 8377/15</p> <p><b>sends</b> [1] 8513/12</p> <p><b>senior</b> [6] 8368/23 8385/13 8386/6 8407/5 8419/13 8463/22</p> <p><b>sense</b> [3] 8316/13 8409/3 8467/24</p> <p><b>sent</b> [2] 8414/25 8429/17</p> <p><b>separate</b> [3] 8331/2 8331/5 8335/20</p> <p><b>separately</b> [1] 8501/2</p> <p><b>September</b> [22] 8483/4 8484/5 8484/5 8490/9 8494/3 8497/5 8497/17 8499/13 8500/2 8500/14 8501/21 8503/8 8505/17 8506/4 8523/6 8528/5 8528/12 8530/19 8536/5 8551/16 8551/18 8569/25</p> <p><b>September 19</b> [4] 8503/8 8523/6 8528/5 8528/12</p> <p><b>September 19th</b> [3] 8500/14 8505/17 8569/25</p> <p><b>September 2014</b> [5] 8494/3 8497/17 8500/2 8501/21 8506/4</p> <p><b>September 30</b> [1] 8530/19</p> <p><b>series</b> [4] 8336/15 8342/1 8359/10 8435/11</p> <p><b>serious</b> [3] 8311/16 8314/20 8314/21</p> <p><b>serve</b> [4] 8344/19 8433/4 8439/13 8463/7</p> <p><b>served</b> [9] 8341/5 8347/11 8349/17 8407/6 8439/6 8439/7 8464/3 8464/7 8575/22</p> <p><b>serves</b> [1] 8465/20</p> <p><b>service</b> [4] 8483/10 8544/25 8545/1 8582/23</p> <p><b>serving</b> [5] 8338/20 8438/6 8438/13 8439/9 8446/9</p> <p><b>set</b> [13] 8361/23 8363/11 8371/20 8373/12 8376/4 8380/2 8404/19 8455/15 8471/22 8497/6 8500/25 8529/1 8575/20</p> <p><b>sets</b> [1] 8431/7</p> <p><b>setting</b> [3] 8370/21 8553/13 8553/14</p> <p><b>settle</b> [13] 8317/4 8318/19 8319/20 8319/22 8331/8 8413/19 8417/1 8418/25 8419/15 8419/19 8419/22 8427/21 8500/1</p> <p><b>settled</b> [1] 8381/13</p> <p><b>settlement</b> [46] 8309/5 8309/8 8309/9 8309/13 8309/17 8311/21 8313/22 8314/3 8316/6 8316/22 8318/11 8320/3 8324/25 8325/7 8327/6 8327/9 8327/15 8327/21 8328/1 8328/9 8336/1 8340/13 8340/18 8345/5 8358/12 8407/12 8408/9 8410/20 8411/2 8412/7 8413/2 8413/4 8413/9 8414/3 8414/4 8414/15 8414/18 8415/4 8416/6 8416/15 8416/18 8416/18 8420/20 8427/17 8427/24 8428/1</p> <p><b>settlements</b> [3] 8321/1 8410/15 8410/16</p> <p><b>settling</b> [9] 8327/17 8328/9 8328/22 8412/5 8415/2 8415/2 8415/19 8416/4 8427/23</p>	<p><b>seven</b> [6] 8428/14 8501/19 8519/16 8573/3 8573/8 8573/11</p> <p><b>severely</b> [1] 8426/17</p> <p><b>share</b> [37] 8436/22 8436/25 8473/6 8473/7 8473/8 8473/9 8473/12 8478/20 8479/4 8479/6 8479/11 8483/3 8483/17 8511/19 8517/24 8524/9 8524/11 8524/14 8524/17 8524/25 8529/20 8530/18 8531/9 8531/16 8543/17 8544/13 8544/14 8544/15 8544/19 8544/23 8544/24 8545/4 8545/10 8546/17 8554/14 8568/1 8571/6</p> <p><b>shareholders</b> [4] 8308/12 8326/23 8488/8 8488/21</p> <p><b>shares</b> [197] 8470/6 8476/2 8476/5 8476/5 8476/11 8476/12 8476/15 8476/16 8476/17 8476/18 8477/8 8478/19 8478/22 8479/3 8479/5 8479/10 8480/21 8481/1 8482/1 8482/2 8482/7 8487/4 8487/5 8487/12 8487/14 8487/15 8487/16 8487/19 8487/21 8487/23 8487/25 8488/6 8488/25 8489/1 8492/19 8492/22 8493/8 8493/9 8493/10 8493/13 8493/14 8493/15 8493/17 8493/19 8493/23 8494/3 8494/5 8494/19 8495/19 8495/23 8496/4 8496/6 8496/12 8496/17 8497/8 8497/16 8498/3 8498/11 8499/6 8499/16 8500/8 8500/20 8500/21 8500/22 8500/23 8501/1 8501/2 8501/5 8501/19 8501/22 8502/5 8502/5 8502/11 8502/16 8503/23 8503/25 8504/2 8504/7 8504/9 8504/10 8504/11 8504/13 8504/16 8504/17 8504/20 8505/24 8505/24 8515/11 8515/11 8515/14 8516/7 8516/8 8516/12 8516/18 8517/11 8517/15 8517/15 8517/16 8517/16 8517/17 8517/20 8517/21 8517/21 8517/22 8522/21 8522/25 8522/25 8523/2 8523/3 8523/12 8523/12 8523/19 8523/23 8523/23 8523/24 8523/25 8524/1 8524/6 8524/9 8524/12 8524/15 8525/16 8525/17 8526/11 8526/11 8526/12 8526/22 8527/1 8527/21 8527/22 8528/23 8528/24 8528/25 8529/6 8542/7 8542/10 8542/13 8542/17 8545/9 8546/10 8547/13 8561/11 8561/20 8561/21 8562/1 8562/3 8562/7 8562/9 8562/12 8562/15 8562/17 8562/22 8562/25 8563/3 8565/18 8565/22 8567/1 8567/2 8567/3 8567/8 8567/14 8567/18 8567/20 8567/21 8567/22 8568/1 8568/8 8568/12 8568/18 8570/10 8570/13 8570/15 8570/17 8570/19 8571/2 8571/13 8571/18 8571/21 8571/25 8572/3 8573/6 8573/9 8573/12 8573/20 8573/25 8574/3 8574/6 8574/10 8574/15 8574/19 8574/25 8575/1 8575/4 8575/6 8575/13 8581/15 8581/16</p> <p><b>Shea</b> [1] 8375/22</p> <p><b>sheet</b> [10] 8308/11 8492/2 8505/21 8529/16 8559/16 8559/19 8559/24 8565/14 8579/16 8579/21</p> <p><b>sheets</b> [2] 8445/19 8527/2</p> <p><b>shell</b> [2] 8470/8 8470/10</p> <p><b>Shkreli</b> [38] 8309/12 8313/3 8318/13 8319/17 8412/16 8418/1 8443/24 8445/13 8445/16 8445/21 8445/24 8449/12 8450/8 8450/17 8450/21 8451/1 8451/3 8451/20 8454/10 8455/12 8486/9 8486/13 8490/10 8496/9 8496/10 8499/19 8500/23 8506/15 8511/25 8514/17 8517/16 8518/6 8523/23 8528/24 8529/4 8541/23 8562/17 8570/19</p> <p><b>Shkreli's</b> [4] 8313/22 8454/2 8454/6 8454/11</p> <p><b>shoes</b> [2] 8312/8 8314/19</p> <p><b>short</b> [8] 8379/18 8430/14 8435/6 8435/11 8435/14 8435/19 8458/12 8554/6</p> <p><b>shorter</b> [1] 8582/20</p> <p><b>should-pay-for</b> [1] 8316/8</p> <p><b>show</b> [40] 8331/12 8337/14 8339/6 8389/18 8407/25 8408/3 8408/6 8480/9 8482/23 8486/25 8491/9 8496/16 8498/8 8498/24 8499/9 8499/18 8500/9 8507/19 8511/22 8511/23 8516/19 8521/19 8525/11 8527/5 8536/8 8545/16 8553/18 8553/20 8554/10</p>	<p>8554/24 8554/25 8560/24 8564/15 8566/14 8566/16 8569/23 8571/12 8576/8 8576/10 8577/11</p> <p><b>showed</b> [5] 8566/21 8569/10 8569/12 8571/8 8575/10</p> <p><b>showing</b> [2] 8380/21 8564/17</p> <p><b>shown</b> [5] 8442/25 8543/25 8569/5 8571/9 8572/16</p> <p><b>shows</b> [21] 8332/8 8383/2 8487/2 8492/17 8496/22 8497/22 8498/9 8498/25 8499/10 8499/19 8500/19 8505/10 8511/9 8525/15 8525/18 8526/10 8526/14 8527/19 8528/15 8530/8 8579/17</p> <p><b>sic</b> [2] 8334/9 8424/1</p> <p><b>side</b> [6] 8321/3 8365/1 8462/10 8464/23 8465/2 8465/4</p> <p><b>sidebar</b> [38] 8328/24 8329/1 8341/4 8341/4 8342/5 8342/20 8342/25 8343/12 8344/22 8351/1 8351/6 8352/2 8355/13 8356/2 8360/12 8361/20 8363/22 8395/5 8395/13 8396/1 8400/3 8414/12 8417/8 8425/3 8425/5 8433/21 8441/16 8452/13 8452/15 8452/18 8452/21 8452/23 8455/24 8548/11 8548/14 8549/3 8556/10 8559/10</p> <p><b>sides</b> [7] 8328/21 8328/21 8331/23 8421/15 8433/17 8455/4 8485/15</p> <p><b>sign</b> [2] 8437/3 8437/6</p> <p><b>signed</b> [1] 8429/12</p> <p><b>significance</b> [1] 8382/15</p> <p><b>significant</b> [16] 8372/6 8373/16 8374/10 8381/16 8381/23 8383/19 8386/12 8386/25 8387/3 8398/10 8423/10 8430/18 8463/14 8481/6 8481/7 8512/19</p> <p><b>significantly</b> [6] 8372/3 8372/5 8373/14 8374/6 8374/14 8483/19</p> <p><b>signs</b> [3] 8429/15 8430/4 8430/7</p> <p><b>similar</b> [11] 8349/17 8349/19 8367/9 8372/10 8372/12 8394/20 8402/23 8403/8 8422/21 8424/4 8431/12</p> <p><b>simple</b> [4] 8463/17 8468/8 8560/3 8563/7</p> <p><b>simply</b> [7] 8453/12 8455/6 8473/7 8473/19 8473/21 8493/16 8581/1</p> <p><b>simultaneous</b> [1] 8528/16</p> <p><b>simultaneously</b> [3] 8514/7 8527/9 8527/21</p> <p><b>single</b> [7] 8341/23 8358/8 8399/24 8404/9 8406/3 8406/11 8571/6</p> <p><b>single-spaced</b> [2] 8341/23 8404/9</p> <p><b>sit</b> [2] 8442/7 8446/20</p> <p><b>site</b> [5] 8336/15 8344/17 8352/24 8475/1 8475/2</p> <p><b>sitting</b> [7] 8429/13 8535/13 8542/16 8561/23 8567/13 8567/25 8571/1</p> <p><b>situation</b> [20] 8308/21 8312/11 8315/13 8318/1 8319/13 8341/19 8394/2 8394/19 8402/22 8403/6 8416/19 8420/16 8422/20 8422/20 8424/4 8424/9 8424/23 8424/25 8426/19 8454/20</p> <p><b>situations</b> [6] 8342/10 8446/13 8447/20 8448/3 8448/19 8448/24</p> <p><b>six</b> [6] 8488/8 8488/21 8489/4 8519/16 8531/20 8567/23</p> <p><b>skip</b> [1] 8479/8</p> <p><b>slightly</b> [3] 8343/23 8343/24 8506/13</p> <p><b>slow</b> [1] 8525/21</p> <p><b>small</b> [11] 8364/21 8364/25 8365/1 8365/1 8365/17 8368/17 8370/20 8375/16 8376/4 8426/24 8472/5</p> <p><b>smart</b> [1] 8362/24</p> <p><b>SMITH</b> [12] 8307/15 8357/8 8357/10 8384/2 8397/25 8417/4 8420/1 8428/19 8446/11 8447/3 8449/13 8584/4</p> <p><b>Smith's</b> [1] 8447/12</p> <p><b>sold</b> [80] 8478/19 8479/10 8482/2 8492/22 8493/9 8493/10 8493/15 8494/5 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<p><b>S</b>  <b>sold...</b> [51] 8516/8 8516/13 8517/12 8517/15  8517/16 8517/17 8517/21 8517/21 8517/22  8522/25 8522/25 8523/4 8523/12 8523/18  8523/23 8524/1 8524/6 8524/9 8524/12  8524/15 8525/16 8525/17 8526/10 8526/11  8528/24 8562/12 8563/3 8563/5 8563/17  8563/21 8567/1 8567/2 8567/3 8567/8 8567/14  8567/17 8567/20 8568/8 8568/12 8568/19  8571/2 8571/5 8571/13 8571/18 8571/21  8571/24 8572/3 8573/3 8573/9 8573/19  8573/20  <b>sole</b> [1] 8336/23  <b>solely</b> [1] 8319/16  <b>solicit</b> [2] 8343/7 8352/17  <b>soliciting</b> [1] 8342/16  <b>solution</b> [1] 8454/20  <b>solvency</b> [1] 8471/8  <b>someone</b> [6] 8322/24 8327/2 8368/20 8552/15  8552/16 8555/20  <b>sometime</b> [4] 8346/1 8346/2 8370/25 8408/10  <b>sometimes</b> [9] 8415/18 8434/22 8434/24  8434/24 8435/6 8435/14 8435/15 8435/19  8566/7  <b>somewhat</b> [1] 8341/15  <b>somewhere</b> [4] 8326/1 8415/21 8485/1  8519/16  <b>soon</b> [2] 8356/14 8508/1  <b>sorry</b> [41] 8330/3 8336/14 8350/12 8364/14  8373/13 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8337/14 8338/6 8338/12 8338/15 8338/23 8353/11 8355/2 8355/17 8391/25 8394/10 8394/12 8394/14 8396/7 8396/19 8396/24 8397/19 8398/17 8402/9 8402/10 8402/17 8403/5 8404/11 8405/25 8406/22 8408/8 8408/16 8408/18 8409/10 8417/16 8418/22 8418/22 8419/16 8419/18 8422/14 8423/3 8426/11 8427/14 8428/9 8429/23 8430/1 8430/2 8431/3 8432/17 8442/10 8442/14 8442/21 8442/23 8452/20 8453/3 8453/12 8453/15 8453/20 8455/3 8455/13 8508/13 8509/4 8509/18 8512/3 8519/10 8519/23 8551/22 8552/5 8552/12 8553/16 8553/16 8556/3 8558/8 8559/1 8560/8 8561/2 8574/22 8575/3 8578/3</p> <p><b>tether</b> [2] 8409/23 8419/4</p> <p><b>tethered</b> [1] 8410/6</p> <p><b>tethering</b> [1] 8359/21</p> <p><b>theory</b> [2] 8334/1 8334/4</p> <p><b>thereby</b> [1] 8338/19</p> <p><b>therefore</b> [7] 8309/14 8313/5 8388/10 8390/5 8390/7 8410/17 8428/3</p> <p><b>thereunder</b> [1] 8478/25</p> <p><b>they've</b> [3] 8311/11 8386/11 8408/23</p> <p><b>thin</b> [1] 8344/5</p> <p><b>thinking</b> [8] 8310/22 8311/5 8313/12 8313/24 8314/12 8315/12 8315/14 8360/19</p> <p><b>thinks</b> [1] 8408/21</p> <p><b>thinly</b> [1] 8321/6</p> <p><b>thinly-funded</b> [1] 8321/6</p> <p><b>third</b> [6] 8342/6 8378/24 8386/9 8418/5 8418/9 8515/10</p> <p><b>third-party</b> [2] 8418/5 8418/9</p> <p><b>Thomas</b> [7] 8487/15 8490/10 8497/22 8506/9 8515/6 8541/15 8562/14</p> <p><b>Thompson</b> [1] 8377/1</p> <p><b>thousand</b> [5] 8421/8 8493/8 8493/9 8493/10 8493/17</p> <p><b>threat</b> [8] 8311/15 8313/14 8314/13 8314/14 8314/20 8412/18 8415/11 8416/12</p> <p><b>threatening</b> [2] 8311/1 8311/11</p> <p><b>threats</b> [6] 8309/11 8311/24 8313/21 8314/21 8314/22 8419/11</p> <p><b>three</b> [25] 8342/10 8347/15 8368/4 8368/15 8385/6 8385/15 8404/9 8409/6 8427/12 8453/8 8453/21 8453/23 8453/23 8459/10 8462/18 8479/21 8479/24 8517/10 8519/20 8523/16</p>	<p>8525/19 8526/15 8527/23 8562/12 8562/22</p> <p><b>three-month</b> [1] 8532/2</p> <p><b>three-year</b> [2] 8342/10 8427/12</p> <p><b>throughout</b> [4] 8335/4 8335/24 8431/2 8475/18</p> <p><b>throw</b> [3] 8331/24 8341/22 8360/11</p> <p><b>ticker</b> [1] 8481/16</p> <p><b>tickets</b> [2] 8472/16 8472/17</p> <p><b>ticking</b> [1] 8581/25</p> <p><b>tie</b> [1] 8427/6</p> <p><b>tied</b> [3] 8359/8 8414/24 8415/15</p> <p><b>Tilles</b> [8] 8486/13 8495/14 8495/15 8498/23 8506/13 8515/6 8541/19 8570/17</p> <p><b>Tillis</b> [1] 8562/14</p> <p><b>Tim</b> [28] 8486/14 8487/17 8488/3 8488/3 8488/4 8489/4 8496/15 8500/5 8500/6 8501/1 8502/4 8502/12 8506/16 8513/3 8513/5 8514/17 8515/8 8517/17 8541/17 8563/5 8565/12 8565/16 8565/22 8567/3 8567/11 8567/14 8571/18 8571/21</p> <p><b>timeframes</b> [1] 8551/13</p> <p><b>timing</b> [2] 8430/16 8432/24</p> <p><b>Timothy</b> [1] 8490/12</p> <p><b>title</b> [1] 8464/9</p> <p><b>today</b> [28] 8308/16 8330/7 8341/10 8384/5 8397/18 8410/14 8420/18 8426/18 8433/1 8433/2 8433/15 8442/10 8442/17 8442/23 8456/17 8473/19 8519/7 8535/1 8535/2 8535/13 8535/23 8542/16 8549/20 8558/8 8561/23 8567/13 8567/25 8571/1</p> <p><b>together</b> [9] 8393/5 8427/7 8466/7 8477/13 8501/4 8513/1 8517/14 8562/21 8563/18</p> <p><b>Tom</b> [2] 8486/14 8488/1</p> <p><b>tomorrow</b> [5] 8456/17 8582/19 8582/24 8583/9 8583/12</p> <p><b>tonight</b> [1] 8583/2</p> <p><b>took</b> [11] 8317/10 8330/6 8331/10 8358/10 8378/15 8393/16 8396/6 8416/10 8417/10 8430/6 8483/24</p> <p><b>top</b> [7] 8367/4 8369/14 8369/22 8375/1 8462/18 8478/18 8481/18</p> <p><b>topic</b> [13] 8317/20 8327/21 8327/25 8328/1 8339/20 8345/23 8387/12 8408/12 8409/24 8410/5 8521/10 8549/22 8550/14</p> <p><b>topics</b> [7] 8340/23 8341/9 8408/14 8408/14 8409/16 8446/5 8550/19</p> <p><b>total</b> [33] 8442/16 8487/3 8487/15 8487/20 8488/7 8488/20 8488/24 8489/1 8494/1 8499/5 8500/24 8501/25 8502/2 8503/9 8503/25 8511/19 8511/19 8516/7 8516/8 8523/3 8523/14 8564/1 8564/8 8565/7 8565/16 8565/18 8568/8 8568/18 8573/2 8573/3 8573/12 8575/12 8575/12</p> <p><b>totally</b> [3] 8319/13 8323/1 8356/18</p> <p><b>touch</b> [3] 8410/6 8456/6 8471/22</p> <p><b>towards</b> [1] 8509/4</p> <p><b>town</b> [4] 8424/22 8432/19 8432/20 8432/22</p> <p><b>track</b> [4] 8396/21 8396/25 8398/12 8423/12</p> <p><b>tracking</b> [1] 8505/16</p> <p><b>trade</b> [18] 8373/12 8386/6 8390/8 8471/25 8477/2 8489/11 8494/11 8506/9 8507/16 8515/7 8517/18 8521/18 8526/18 8543/5 8547/13 8562/6 8562/7 8580/12</p> <p><b>traded</b> [25] 8381/23 8382/18 8470/8 8476/11 8476/12 8481/24 8483/7 8487/20 8488/6 8505/24 8515/8 8528/25 8545/9 8546/11 8562/1 8562/4 8564/1 8565/18 8568/21 8574/3 8574/10 8574/20 8575/1 8575/7 8581/17</p> <p><b>trades</b> [11] 8500/1 8522/11 8527/25 8529/3 8529/5 8554/17 8569/7 8569/11 8569/21 8570/10 8570/23</p> <p><b>trading</b> [118] 8308/12 8463/19 8463/20 8467/3 8467/11 8467/12 8467/15 8468/3 8468/22 8469/2 8471/4 8473/16 8473/17 8473/18 8474/3 8476/15 8481/23 8483/19 8483/20 8483/23 8483/23 8487/4 8487/5 8487/12 8487/15 8487/19 8487/25 8488/7 8488/8 8488/8 8488/20 8488/21 8490/8 8491/23</p>
<p><b>T</b></p> <p><b>tab</b> [9] 8349/25 8350/2 8366/10 8372/14 8372/15 8378/5 8378/17 8544/3 8576/15</p> <p><b>Tab 36</b> [1] 8576/15</p> <p><b>tailored</b> [3] 8360/24 8362/11 8363/11</p> <p><b>talks</b> [3] 8368/22 8374/20 8414/17</p> <p><b>tank</b> [1] 8538/12</p> <p><b>Tanke</b> [14] 8353/14 8353/15 8364/16 8365/19 8365/22 8366/2 8368/14 8394/11 8396/8 8396/20 8398/7 8399/11 8423/6 8424/4</p> <p><b>target</b> [2] 8310/17 8342/12</p> <p><b>targeted</b> [4] 8342/9 8342/15 8359/8 8360/24</p> <p><b>taught</b> [8] 8407/17 8427/20 8427/24 8460/16 8460/20 8460/22 8461/15 8461/21</p> <p><b>teach</b> [9] 8459/23 8460/2 8460/15 8460/18 8460/19 8460/24 8460/25 8461/19 8462/1</p> <p><b>teacher</b> [1] 8461/4</p> <p><b>teaching</b> [4] 8460/18 8461/2 8461/3 8461/6</p> <p><b>team</b> [4] 8332/4 8398/21 8553/10 8553/20</p> <p><b>technical</b> [1] 8399/23</p> <p><b>technically</b> [2] 8400/8 8438/15</p> <p><b>Teich</b> [1] 8307/22</p> <p><b>telephone</b> [1] 8444/2</p> <p><b>temporal</b> [4] 8358/2 8359/20 8409/24 8421/1</p> <p><b>ten</b> [8] 8392/10 8421/3 8423/18 8434/23 8435/9 8460/12 8508/3 8512/12</p> <p><b>ten-minute</b> [1] 8434/23</p> <p><b>tend</b> [6] 8472/12 8503/6 8513/24 8520/22 8526/21 8529/25</p>		

<p><b>T</b>  <b>trading...</b> [84] 8492/16 8493/3 8496/23  8497/11 8497/23 8498/9 8498/18 8498/23  8499/10 8499/15 8499/19 8502/3 8504/20  8506/20 8507/18 8508/14 8509/9 8509/19  8511/10 8511/23 8512/23 8513/3 8514/4  8514/15 8515/3 8515/12 8515/19 8516/14  8516/15 8516/21 8516/24 8522/14 8526/19  8526/19 8526/24 8528/6 8528/7 8528/8 8528/9  8528/10 8528/18 8529/13 8529/14 8529/17  8529/18 8529/20 8530/21 8531/24 8532/5  8532/16 8532/17 8561/5 8561/11 8562/3  8562/7 8562/17 8562/21 8562/25 8563/8  8564/8 8564/10 8565/7 8565/7 8565/12  8565/21 8566/11 8566/20 8566/21 8568/18  8571/10 8572/7 8573/12 8574/6 8574/15  8574/19 8574/21 8574/22 8575/1 8575/12  8575/13 8580/3 8581/15 8581/20 8582/6  <b>Trading-wise</b> [1] 8507/18  <b>traditional</b> [2] 8312/18 8470/3  <b>trans</b> [1] 8505/10  <b>transact</b> [1] 8490/7  <b>transacting</b> [1] 8488/25  <b>transaction</b> [12] 8368/3 8373/4 8397/1 8397/3  8399/2 8399/6 8423/20 8423/23 8424/9  8424/10 8424/14 8475/17  <b>transactions</b> [16] 8325/6 8353/1 8355/2  8365/9 8366/19 8367/11 8367/21 8369/12  8375/10 8375/13 8377/3 8473/3 8476/7  8478/21 8482/21 8500/15  <b>transcript</b> [20] 8307/9 8307/24 8324/25 8327/7  8330/13 8330/15 8396/6 8396/18 8397/15  8401/13 8402/8 8423/2 8443/7 8457/2 8457/3  8508/10 8508/25 8510/1 8549/18 8578/5  <b>transcription</b> [2] 8307/25 8508/6  <b>transcripts</b> [1] 8508/22  <b>transition</b> [3] 8392/13 8393/1 8393/9  <b>transitioning</b> [6] 8333/19 8386/13 8386/19  8386/21 8434/20 8435/5  <b>treated</b> [1] 8418/18  <b>trial</b> [21] 8307/9 8319/11 8336/22 8337/7  8338/16 8360/7 8360/15 8404/5 8421/20  8421/24 8431/2 8433/4 8453/14 8454/3 8454/6  8454/10 8454/25 8455/12 8455/17 8539/3  8539/5  <b>tried</b> [6] 8359/12 8396/21 8398/12 8410/21  8422/3 8423/12  <b>tries</b> [2] 8431/19 8525/14  <b>trillion</b> [1] 8367/23  <b>trouble</b> [2] 8397/21 8490/19  <b>troubled</b> [1] 8360/1  <b>truck</b> [1] 8336/6  <b>true</b> [5] 8338/11 8416/17 8420/4 8554/12  8568/10  <b>trunk</b> [1] 8330/16  <b>trust</b> [1] 8354/3  <b>truth</b> [33] 8326/6 8332/14 8332/21 8334/23  8334/23 8335/1 8335/12 8335/15 8335/20  8335/24 8336/4 8337/1 8337/14 8338/9  8346/22 8389/17 8408/2 8411/19 8414/24  8416/3 8416/7 8416/22 8417/9 8419/25  8420/15 8420/15 8421/2 8421/5 8430/19  8431/1 8554/25 8555/1 8556/7  <b>try</b> [29] 8328/12 8343/2 8343/11 8354/10  8356/12 8363/3 8363/11 8380/3 8382/5 8388/7  8388/12 8388/22 8389/9 8390/1 8394/7 8402/8  8429/10 8432/16 8435/2 8456/16 8456/17  8485/25 8516/4 8521/17 8527/6 8529/21  8553/15 8553/17 8553/17  <b>trying</b> [25] 8312/4 8314/7 8314/13 8315/11  8317/25 8321/6 8328/18 8333/25 8336/5  8340/25 8359/18 8402/8 8412/9 8413/7  8420/17 8422/4 8426/12 8451/17 8462/7  8462/11 8473/21 8485/18 8521/14 8526/8  8553/8  <b>Tuck</b> [1] 8461/14  <b>turn</b> [20] 8348/15 8349/22 8349/25 8350/2  8372/14 8378/5 8380/22 8474/4 8474/7 8475/6</p>	<p>8475/22 8478/2 8486/24 8494/13 8495/12  8496/7 8496/6 8496/21 8504/22 8521/10  <b>turning</b> [7] 8492/14 8494/6 8495/6 8497/18  8497/24 8499/7 8499/18  <b>twelve</b> [1] 8383/8  <b>Twenty</b> [1] 8527/23  <b>Twenty-three</b> [1] 8527/23  <b>twice</b> [3] 8563/21 8563/22 8563/24  <b>twins</b> [2] 8353/19 8381/22  <b>two</b> [38] 8334/16 8347/17 8362/25 8379/19  8381/8 8392/15 8392/15 8392/17 8403/14  8408/10 8415/3 8415/21 8420/23 8421/15  8421/15 8429/7 8432/1 8442/15 8470/2 8474/2  8479/13 8492/24 8495/16 8512/4 8519/20  8520/22 8523/20 8527/21 8538/7 8549/25  8560/3 8570/9 8571/25 8572/2 8578/10  8583/11 8583/12 8583/14  <b>two-year</b> [2] 8334/16 8408/10  <b>type</b> [19] 8322/24 8355/8 8364/19 8367/1  8367/16 8369/6 8369/20 8373/8 8373/23  8375/15 8376/3 8386/7 8407/22 8427/11  8468/1 8494/8 8521/3 8526/19 8532/17  <b>types</b> [17] 8310/7 8352/10 8460/16 8461/25  8462/5 8462/9 8463/16 8463/18 8467/23  8469/22 8469/23 8469/24 8470/19 8470/22  8471/25 8473/16 8520/24  <b>typical</b> [1] 8472/2  <b>typically</b> [12] 8467/17 8467/22 8468/6 8470/8  8471/7 8472/4 8473/9 8473/11 8473/12  8473/14 8482/10 8526/19</p> <p><b>U</b>  <b>ultimate</b> [3] 8308/23 8321/22 8322/2  <b>ultimately</b> [2] 8416/24 8553/19  <b>unable</b> [6] 8396/22 8398/13 8423/13 8476/9  8512/23 8557/14  <b>unavailable</b> [1] 8454/24  <b>uncertainties</b> [1] 8477/13  <b>under</b> [22] 8308/25 8309/20 8313/10 8313/10  8321/20 8330/25 8334/1 8334/4 8339/10  8350/5 8356/20 8365/22 8406/4 8407/11  8414/19 8476/6 8478/23 8478/24 8481/16  8502/2 8555/16 8574/25  <b>undergrad</b> [2] 8459/7 8459/11  <b>underlying</b> [2] 8479/7 8505/20  <b>underpriced</b> [1] 8474/1  <b>understood</b> [8] 8335/12 8335/17 8354/25  8412/21 8422/2 8427/4 8430/2 8450/15  <b>undervalued</b> [2] 8473/24 8489/25  <b>undue</b> [2] 8340/6 8411/14  <b>unduly</b> [1] 8414/22  <b>unfair</b> [6] 8323/23 8360/5 8360/5 8360/9  8400/7 8418/17  <b>unhinged</b> [3] 8334/15 8334/17 8334/18  <b>unidentified</b> [1] 8321/20  <b>UNITED</b> [18] 8307/1 8307/3 8307/3 8307/10  8307/13 8307/16 8336/19 8337/9 8338/4  8338/21 8342/25 8365/4 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